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Legislative History – Montana Session Law

Chapter: 43 Session L: 2023

Bill Number: SB 191

Checklist of Bill History

History and Final Status Sheet	☑
Introduced Bill	☑
Fiscal Note	☐
Third Reading Bill	☐
Final Version of Bill	☐

House	Senate
Committee: Judiciary	Committee: Judiciary
Hearing Date(s): 02/09/2023	Hearing Date(s): 01/24/2023
Committee Report: 02/09/2023	Committee Report: 01/26/2023

Conference Committee

Hearing Date(s):

Conference Committee Report:

Compiler Notes

Compiled by: SK Marshall

Date: 3/27/2024

Notes:

Bill Draft Number: LC0831
Bill Type - Number: SB 191
Short Title: Revise preliminary injunction laws
Primary Sponsor: Steve Fitzpatrick (R) SD 10
Chapter Number: 43

Bill Actions - **Current Bill Progress:** Became Law

Bill Action Count: 58

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	03/06/2023			
(S) Signed by Governor	03/02/2023			
(H) Signed by Speaker	02/24/2023			
(S) Transmitted to Governor	02/24/2023			
(S) Signed by President	02/23/2023			
(C) Printed - Enrolled Version Available	02/23/2023			
(S) Returned from Enrolling	02/23/2023			
(S) Sent to Enrolling	02/14/2023			
(H) Returned to Senate	02/13/2023			
(H) 3rd Reading Concurred	02/13/2023	67	30	
(H) Scheduled for 3rd Reading	02/13/2023			
(H) 2nd Reading Concurred	02/10/2023	66	33	
(H) Scheduled for 2nd Reading	02/10/2023			
(H) Committee Report--Bill Concurred	02/09/2023			(H) Judiciary
(H) Committee Executive Action--Bill Concurred	02/09/2023	15	4	(H) Judiciary
(H) Hearing	02/09/2023			(H) Judiciary
(H) First Reading	02/06/2023			
(H) Referred to Committee	02/06/2023			(H) Judiciary
(S) Transmitted to House	02/02/2023			
(S) 3rd Reading Passed	02/01/2023	33	17	
(S) Scheduled for 3rd Reading	02/01/2023			
(S) 2nd Reading Passed	01/31/2023	33	17	
(S) Scheduled for 2nd Reading	01/31/2023			
(C) Printed - New Version Available	01/27/2023			
(S) Committee Report--Bill Passed as Amended	01/27/2023			(S) Judiciary
(S) Committee Executive Action--Bill Passed as Amended	01/26/2023	7	4	(S) Judiciary
(C) Amendments Available	01/24/2023			
(S) Hearing	01/24/2023			(S) Judiciary
(C) Introduced Bill Text Available Electronically	01/19/2023			
(S) First Reading	01/19/2023			
(S) Referred to Committee	01/19/2023			(S) Judiciary
(S) Introduced	01/18/2023			
(C) Draft Delivered to Requester	01/18/2023			
(C) Draft Ready for Delivery	01/17/2023			
(C) Executive Director Final Review	01/16/2023			
(C) Draft Ready for Delivery	01/16/2023			
(C) Draft in Assembly	01/16/2023			
(C) Executive Director Review	01/16/2023			
(C) Bill Draft Text Available Electronically	01/16/2023			
(C) Draft in Final Drafter Review	01/16/2023			
(C) Draft in Input/Proofing	01/16/2023			
(C) Draft to Drafter - Edit Review	01/16/2023			
(C) Draft in Edit	01/06/2023			
(C) Draft Back for Redo	01/04/2023			
(C) Draft Ready for Delivery	01/03/2023			
(C) Executive Director Final Review	01/03/2023			
(C) Draft Ready for Delivery	01/03/2023			
(C) Draft in Assembly	01/03/2023			
(C) Executive Director Review	01/02/2023			
(C) Bill Draft Text Available Electronically	01/02/2023			
(C) Draft in Final Drafter Review	01/02/2023			
(C) Draft in Input/Proofing	01/02/2023			
(C) Draft to Drafter - Edit Review	01/01/2023			
(C) Draft in Edit	12/27/2022			
(C) Draft in Legal Review	12/23/2022			
(C) Draft to Requester for Review	12/22/2022			
(C) Draft to Requester for Review	11/04/2022			
(C) Draft Request Received	10/25/2022			

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name	Mi
Requester	Regier	Keith	
Drafter	Carroll	Joe	

Primary Sponsor Fitzpatrick Steve

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Courts (see also: Judges and Justices; Juries and Jurors)		Simple	CORT
Judges and Justices (see also: Courts)		Simple	JUD
Remedies (see also: Liability; Torts)		Simple	REM

Additional Bill Information

Fiscal Note Probable: No
Preintroduction Required: N
Session Law Ch. Number: 43
DEADLINE
Category: General Bills
Transmittal Date: 03/03/2023
Return (with 2nd house amendments) Date: 04/18/2023

Section Effective Dates

Section(s)	Effective Date	Date Qualified
All Sections	02-MAR-23	

SENATE BILL NO. 191

INTRODUCED BY S. FITZPATRICK

A BILL FOR AN ACT ENTITLED: “AN ACT REVISING PRELIMINARY INJUNCTION AND TEMPORARY RESTRAINING ORDER LAWS; INCORPORATING THE FEDERAL STANDARD FOR A PRELIMINARY INJUNCTION INTO MONTANA LAW AS THE GENERAL STANDARD FOR A PRELIMINARY INJUNCTION OR TEMPORARY RESTRAINING ORDER; REQUIRING THE APPLICANT FOR A PRELIMINARY INJUNCTION OR TEMPORARY RESTRAINING ORDER TO SHOW WHY AN INJUNCTION OR TEMPORARY RESTRAINING ORDER SHOULD BE GRANTED; PROVIDING A DECLARATION OF LEGISLATIVE INTENT; AND AMENDING SECTIONS 27-19-201, 27-19-301, 27-19-315, AND 75-1-201, MCA.”

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-19-201, MCA, is amended to read:

"**27-19-201. When preliminary injunction may be granted -- legislative intent.** ~~An injunction order may be granted in the following cases:~~

~~(1) when it appears that the applicant is entitled to the relief demanded and the relief or any part of the relief consists in restraining the commission or continuance of the act complained of, either for a limited period or perpetually;~~

~~(2) when it appears that the commission or continuance of some act during the litigation would produce a great or irreparable injury to the applicant;~~

~~(3) when it appears during the litigation that the adverse party is doing or threatens or is about to do or is procuring or suffering to be done some act in violation of the applicant's rights, respecting the subject of the action, and tending to render the judgment ineffectual;~~

(1) A preliminary injunction order or temporary restraining order may be granted when the applicant establishes that:

(a) the applicant is likely to succeed on the merits;

(b) the applicant is likely to suffer irreparable harm in the absence of preliminary relief;

(c) the balance of equities tips in the applicant's favor; and

(d) the order is in the public interest.

(2) An injunction order may be granted in either of the following cases between persons, not including a person being sued in that person's official capacity:

~~(4)~~(a) when it appears that the adverse party, ~~during the pendency of~~ while the action is pending, threatens or is about to remove or to dispose of the adverse party's property with intent to defraud the applicant, in which case an injunction order may be granted to restrain the removal or disposition; or

~~(5)~~(b) when it appears that the applicant has applied for an order under the provisions of 40-4-121 or an order of protection under Title 40, chapter 15.

(3) The applicant for an injunction provided for in this section bears the burden of demonstrating the need for an injunction order.

(4) It is the intent of the legislature that the language in subsection (1) mirror the federal preliminary injunction standard, and that interpretation and application of subsection (1) closely follow United States supreme court case law."

Section 2. Section 27-19-301, MCA, is amended to read:

"**27-19-301. Notice of application -- hearing.** (1) No preliminary injunction order may be issued without reasonable notice to the adverse party of the time and place ~~of the making of the application therefor~~ that application for the injunction order was made.

(2) Before granting an injunction order, the court or judge shall make an order requiring cause to be shown, at a specified time and place, why the injunction should ~~not~~ be granted, and the adverse party may in the meantime be restrained as provided in 27-19-314."

Section 3. Section 27-19-315, MCA, is amended to read:

"**27-19-315. When restraining order may be granted without notice.** A temporary restraining order may be granted without written or oral notice to the adverse party or the party's attorney only if:

(1) ~~it clearly appears from specific facts shown by affidavit or by the verified complaint that a delay~~

~~would cause immediate and irreparable injury to the applicant before the adverse party or the party's attorney could be heard in opposition~~ the applicant or the applicant's attorney makes a showing that the requirements of 27-19-201(1) are met; ~~and~~

(2) the applicant or the applicant's attorney certifies to the court in writing the efforts, if any, that have been made to give notice and the reasons supporting the applicant's claim that notice should not be required; and

(3) the state or the state's departments, agencies, or officers being sued in their official capacities are not the adverse party."

Section 4. Section 75-1-201, MCA, is amended to read:

"**75-1-201. General directions -- environmental impact statements.** (1) The legislature authorizes and directs that, to the fullest extent possible:

(a) the policies, regulations, and laws of the state must be interpreted and administered in accordance with the policies set forth in parts 1 through 3;

(b) under this part, all agencies of the state, except the legislature and except as provided in subsections (2) and (3), shall:

(i) use a systematic, interdisciplinary approach that will ensure:

(A) the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking for a state-sponsored project that may have an impact on the Montana human environment by projects in Montana; and

(B) that in any environmental review that is not subject to subsection (1)(b)(iv), when an agency considers alternatives, the alternative analysis will be in compliance with the provisions of subsections (1)(b)(iv)(C)(I) and (1)(b)(iv)(C)(II) and, if requested by the project sponsor or if determined by the agency to be necessary, subsection (1)(b)(iv)(C)(III);

(ii) identify and develop methods and procedures that will ensure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking for state-sponsored projects, along with economic and technical considerations;

(iii) identify and develop methods and procedures that will ensure that state government actions

that may impact the human environment in Montana are evaluated for regulatory restrictions on private property, as provided in subsection (1)(b)(iv)(D);

(iv) include in each recommendation or report on proposals for projects, programs, and other major actions of state government significantly affecting the quality of the human environment in Montana a detailed statement on:

(A) the environmental impact of the proposed action;

(B) any adverse effects on Montana's environment that cannot be avoided if the proposal is implemented;

(C) alternatives to the proposed action. An analysis of any alternative included in the environmental review must comply with the following criteria:

(I) any alternative proposed must be reasonable, in that the alternative must be achievable under current technology and the alternative must be economically feasible as determined solely by the economic viability for similar projects having similar conditions and physical locations and determined without regard to the economic strength of the specific project sponsor;

(II) the agency proposing the alternative shall consult with the project sponsor regarding any proposed alternative, and the agency shall give due weight and consideration to the project sponsor's comments regarding the proposed alternative;

(III) the agency shall complete a meaningful no-action alternative analysis. The no-action alternative analysis must include the projected beneficial and adverse environmental, social, and economic impact of the project's noncompletion.

(D) any regulatory impacts on private property rights, including whether alternatives that reduce, minimize, or eliminate the regulation of private property rights have been analyzed. The analysis in this subsection (1)(b)(iv)(D) need not be prepared if the proposed action does not involve the regulation of private property.

(E) the relationship between local short-term uses of the Montana human environment and the maintenance and enhancement of long-term productivity;

(F) any irreversible and irretrievable commitments of resources that would be involved in the proposed action if it is implemented;

(G) the customer fiscal impact analysis, if required by 69-2-216; and

(H) the details of the beneficial aspects of the proposed project, both short-term and long-term, and the economic advantages and disadvantages of the proposal;

(v) in accordance with the criteria set forth in subsection (1)(b)(iv)(C), study, develop, and describe appropriate alternatives to recommend courses of action in any proposal that involves unresolved conflicts concerning alternative uses of available resources. If the alternatives analysis is conducted for a project that is not a state-sponsored project and alternatives are recommended, the project sponsor may volunteer to implement the alternative. Neither the alternatives analysis nor the resulting recommendations bind the project sponsor to take a recommended course of action, but the project sponsor may agree pursuant to subsection (4)(b) to a specific course of action.

(vi) recognize the potential long-range character of environmental impacts in Montana and, when consistent with the policies of the state, lend appropriate support to initiatives, resolutions, and programs designed to maximize cooperation in anticipating and preventing a decline in the quality of Montana's environment;

(vii) make available to counties, municipalities, institutions, and individuals advice and information useful in restoring, maintaining, and enhancing the quality of Montana's environment;

(viii) initiate and use ecological information in the planning and development of resource-oriented projects; and

(ix) assist the legislature and the environmental quality council established by 5-16-101;

(c) prior to making any detailed statement as provided in subsection (1)(b)(iv), the responsible state official shall consult with and obtain the comments of any state agency that has jurisdiction by law or special expertise with respect to any environmental impact involved in Montana and with any Montana local government, as defined in 7-12-1103, that may be directly impacted by the project. The responsible state official shall also consult with and obtain comments from any state agency in Montana with respect to any regulation of private property involved. Copies of the statement and the comments and views of the appropriate state, federal, and local agencies that are authorized to develop and enforce environmental standards must be made available to the governor, the environmental quality council, and the public and must accompany the proposal through the existing agency review processes.

(d) a transfer of an ownership interest in a lease, permit, license, certificate, or other entitlement for use or permission to act by an agency, either singly or in combination with other state agencies, does not trigger review under subsection (1)(b)(iv) if there is not a material change in terms or conditions of the entitlement or unless otherwise provided by law.

(2) (a) Except as provided in subsection (2)(b), an environmental review conducted pursuant to subsection (1) may not include a review of actual or potential impacts beyond Montana's borders. It may not include actual or potential impacts that are regional, national, or global in nature.

(b) An environmental review conducted pursuant to subsection (1) may include a review of actual or potential impacts beyond Montana's borders if it is conducted by:

(i) the department of fish, wildlife, and parks for the management of wildlife and fish;

(ii) an agency reviewing an application for a project that is not a state-sponsored project to the extent that the review is required by law, rule, or regulation; or

(iii) a state agency and a federal agency to the extent the review is required by the federal agency.

(3) The department of public service regulation, in the exercise of its regulatory authority over rates and charges of railroads, motor carriers, and public utilities, is exempt from the provisions of parts 1 through 3.

(4) (a) The agency may not withhold, deny, or impose conditions on any permit or other authority to act based on parts 1 through 3 of this chapter.

(b) Nothing in this subsection (4) prevents a project sponsor and an agency from mutually developing measures that may, at the request of a project sponsor, be incorporated into a permit or other authority to act.

(c) Parts 1 through 3 of this chapter do not confer authority to an agency that is a project sponsor to modify a proposed project or action.

(5) (a) (i) A challenge to an agency action under this part may only be brought against a final agency action and may only be brought in district court or in federal court, whichever is appropriate.

(ii) Any action or proceeding challenging a final agency action alleging failure to comply with or inadequate compliance with a requirement under this part must be brought within 60 days of the action that is the subject of the challenge.

(iii) For an action taken by the board of land commissioners or the department of natural resources

and conservation under Title 77, "final agency action" means the date that the board of land commissioners or the department of natural resources and conservation issues a final environmental review document under this part or the date that the board approves the action that is subject to this part, whichever is later.

(b) Any action or proceeding under subsection (5)(a)(ii) must take precedence over other cases or matters in the district court unless otherwise provided by law.

(c) Any judicial action or proceeding brought in district court under subsection (5)(a) involving an equine slaughter or processing facility must comply with 81-9-240 and 81-9-241.

(6) (a) (i) In an action alleging noncompliance or inadequate compliance with a requirement of parts 1 through 3, including a challenge to an agency's decision that an environmental review is not required or a claim that the environmental review is inadequate, the agency shall compile and submit to the court the certified record of its decision at issue, and except as provided in subsection (6)(b), the person challenging the decision has the burden of proving the claim by clear and convincing evidence contained in the record.

(ii) Except as provided in subsection (6)(b), in a challenge to the agency's decision or the adequacy of an environmental review, a court may not consider any information, including but not limited to an issue, comment, argument, proposed alternative, analysis, or evidence, that was not first presented to the agency for the agency's consideration prior to the agency's decision or within the time allowed for comments to be submitted.

(iii) Except as provided in subsection (6)(b), the court shall confine its review to the record certified by the agency. The court shall affirm the agency's decision or the environmental review unless the court specifically finds that the agency's decision was arbitrary and capricious or was otherwise not in accordance with law.

(iv) A customer fiscal impact analysis pursuant to 69-2-216 or an allegation that the customer fiscal impact analysis is inadequate may not be used as the basis of an action challenging or seeking review of the agency's decision.

(b) (i) When a party challenging the decision or the adequacy of the environmental review or decision presents information not in the record certified by the agency, the challenging party shall certify under oath in an affidavit that the information is new, material, and significant evidence that was not publicly available before the agency's decision and that is relevant to the decision or the adequacy of the agency's environmental

review.

(ii) If upon reviewing the affidavit the court finds that the proffered information is new, material, and significant evidence that was not publicly available before the agency's decision and that is relevant to the decision or to the adequacy of the agency's environmental review, the court shall remand the new evidence to the agency for the agency's consideration and an opportunity to modify its decision or environmental review before the court considers the evidence as a part of the administrative record under review.

(iii) If the court finds that the information in the affidavit does not meet the requirements of subsection (6)(b)(i), the court may not remand the matter to the agency or consider the proffered information in making its decision.

(c) (i) The remedies provided in this section for successful challenges to a decision of the agency or the adequacy of the statement are exclusive.

(ii) Notwithstanding the provisions of 27-19-201 and 27-19-314, a court having considered the pleadings of parties and intervenors who are requesting a temporary restraining order or preliminary injunction or who are opposing a request for a ~~temporary restraining order, preliminary injunction,~~ permanent injunction~~,~~ or other equitable relief may not enjoin the issuance or effectiveness of a license or permit or a part of a license or permit issued pursuant to Title 75 or Title 82 unless the court specifically finds that the party requesting the relief is more likely than not to prevail on the merits of its complaint given the uncontroverted facts in the record and applicable law and, in the absence of a temporary restraining order, a preliminary injunction, a permanent injunction, or other equitable relief, that the:

(A) party requesting the relief will suffer irreparable harm in the absence of the relief;

(B) issuance of the relief is in the public interest. In determining whether the grant of the relief is in the public interest, a court:

(I) may not consider the legal nature or character of any party; and

(II) shall consider the implications of the relief on the local and state economy and make written findings with respect to both.

(C) relief is as narrowly tailored as the facts allow to address both the alleged noncompliance and the irreparable harm the party asking for the relief will suffer. In tailoring the relief, the court shall ensure, to the extent possible, that the project or as much of the project as possible can go forward while also providing the

relief to which the applicant has been determined to be entitled.

(d) The court may issue a temporary restraining order, preliminary injunction, permanent injunction, or other injunctive relief only if the party seeking the relief provides a written undertaking to the court in an amount reasonably calculated by the court as adequate to pay the costs and damages sustained by any party that may be found to have been wrongfully enjoined or restrained by a court through a subsequent judicial decision in the case. If the party seeking an injunction or a temporary restraining order objects to the amount of the written undertaking for any reason, including but not limited to its asserted inability to pay, that party shall file an affidavit with the court that states the party's income, assets, and liabilities in order to facilitate the court's consideration of the amount of the written undertaking that is required. The affidavit must be served on the party enjoined.

(e) An individual or entity seeking a lease, permit, license, certificate, or other entitlement or authority to act may intervene in a lawsuit in court challenging a decision or statement by a department or agency of the state as a matter of right if the individual or entity has not been named as a defendant.

(f) Attorney fees or costs may not be awarded to the prevailing party in an action alleging noncompliance or inadequate compliance with a requirement of parts 1 through 3.

(7) For purposes of judicial review, to the extent that the requirements of this section are inconsistent with the provisions of the National Environmental Policy Act, the requirements of this section apply to an environmental review or any severable portion of an environmental review within the state's jurisdiction that is being prepared by a state agency pursuant to this part in conjunction with a federal agency proceeding pursuant to the National Environmental Policy Act.

(8) The director of the agency responsible for the determination or recommendation shall endorse in writing any determination of significance made under subsection (1)(b)(iv) or any recommendation that a determination of significance be made.

(9) A project sponsor may request a review of the significance determination or recommendation made under subsection (8) by the appropriate board, if any. The appropriate board may, at its discretion, submit an advisory recommendation to the agency regarding the issue. The period of time between the request for a review and completion of a review under this subsection may not be included for the purposes of determining compliance with the time limits established for environmental review in 75-1-208."

- END -

SENATE BILL NO. 191

INTRODUCED BY S. FITZPATRICK

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PRELIMINARY INJUNCTION AND TEMPORARY RESTRAINING ORDER LAWS; INCORPORATING THE FEDERAL STANDARD FOR A PRELIMINARY INJUNCTION INTO MONTANA LAW AS THE GENERAL STANDARD FOR A PRELIMINARY INJUNCTION OR TEMPORARY RESTRAINING ORDER; REQUIRING THE APPLICANT FOR A PRELIMINARY INJUNCTION OR TEMPORARY RESTRAINING ORDER TO SHOW WHY AN INJUNCTION OR TEMPORARY RESTRAINING ORDER SHOULD BE GRANTED; PROVIDING A DECLARATION OF LEGISLATIVE INTENT; ~~AND~~ AMENDING SECTIONS 27-19-201, 27-19-301, AND 27-19-315, ~~AND 75-1-201,~~ MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-19-201, MCA, is amended to read:

"**27-19-201. When preliminary injunction may be granted -- legislative intent.** ~~An injunction order may be granted in the following cases:~~

~~(1) when it appears that the applicant is entitled to the relief demanded and the relief or any part of the relief consists in restraining the commission or continuance of the act complained of, either for a limited period or perpetually;~~

~~(2) when it appears that the commission or continuance of some act during the litigation would produce a great or irreparable injury to the applicant;~~

~~(3) when it appears during the litigation that the adverse party is doing or threatens or is about to do or is procuring or suffering to be done some act in violation of the applicant's rights, respecting the subject of the action, and tending to render the judgment ineffectual;~~

(1) A preliminary injunction order or temporary restraining order may be granted when the applicant establishes that:

(a) the applicant is likely to succeed on the merits;

(b) the applicant is likely to suffer irreparable harm in the absence of preliminary relief;

(c) the balance of equities tips in the applicant's favor; and

(d) the order is in the public interest.

(2) An injunction order may be granted in either of the following cases between persons, not including a person being sued in that person's official capacity:

~~(4)~~(a) when it appears that the adverse party, ~~during the pendency of~~ while the action is pending, threatens or is about to remove or to dispose of the adverse party's property with intent to defraud the applicant, in which case an injunction order may be granted to restrain the removal or disposition; or

~~(5)~~(b) when it appears that the applicant has applied for an order under the provisions of 40-4-121 or an order of protection under Title 40, chapter 15.

(3) The applicant for an injunction provided for in this section bears the burden of demonstrating the need for an injunction order.

(4) It is the intent of the legislature that the language in subsection (1) mirror the federal preliminary injunction standard, and that interpretation and application of subsection (1) closely follow United States supreme court case law."

Section 2. Section 27-19-301, MCA, is amended to read:

"**27-19-301. Notice of application -- hearing.** (1) No preliminary injunction order may be issued without reasonable notice to the adverse party of the time and place ~~of the making of the application therefor~~ that application for the injunction order was made.

(2) Before granting an injunction order, the court or judge shall make an order requiring cause to be shown, at a specified time and place, why the injunction should ~~not~~ be granted, and the adverse party may in the meantime be restrained as provided in 27-19-314."

Section 3. Section 27-19-315, MCA, is amended to read:

"**27-19-315. When restraining order may be granted without notice.** A temporary restraining order may be granted without written or oral notice to the adverse party or the party's attorney only if:

(1) ~~it clearly appears from specific facts shown by affidavit or by the verified complaint that a delay~~

~~would cause immediate and irreparable injury to the applicant before the adverse party or the party's attorney could be heard in opposition~~ the applicant or the applicant's attorney makes a showing that the requirements of 27-19-201(1) are met; ~~and~~ AND

(2) the applicant or the applicant's attorney certifies to the court in writing the efforts, if any, that have been made to give notice and the reasons supporting the applicant's claim that notice should not be required~~; and~~

~~(3) the state or the state's departments, agencies, or officers being sued in their official capacities are not the adverse party~~."

~~**Section 4.** Section 75-1-201, MCA, is amended to read:~~

~~"**75-1-201. General directions -- environmental impact statements.** (1) The legislature authorizes and directs that, to the fullest extent possible:~~

~~(a) the policies, regulations, and laws of the state must be interpreted and administered in accordance with the policies set forth in parts 1 through 3;~~

~~(b) under this part, all agencies of the state, except the legislature and except as provided in subsections (2) and (3), shall:~~

~~(i) use a systematic, interdisciplinary approach that will ensure:~~

~~(A) the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking for a state-sponsored project that may have an impact on the Montana human environment by projects in Montana; and~~

~~(B) that in any environmental review that is not subject to subsection (1)(b)(iv), when an agency considers alternatives, the alternative analysis will be in compliance with the provisions of subsections (1)(b)(iv)(C)(I) and (1)(b)(iv)(C)(II) and, if requested by the project sponsor or if determined by the agency to be necessary, subsection (1)(b)(iv)(C)(III);~~

~~(ii) identify and develop methods and procedures that will ensure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking for state-sponsored projects, along with economic and technical considerations;~~

~~(iii) identify and develop methods and procedures that will ensure that state government actions~~

~~that may impact the human environment in Montana are evaluated for regulatory restrictions on private property, as provided in subsection (1)(b)(iv)(D);~~

~~(iv) include in each recommendation or report on proposals for projects, programs, and other major actions of state government significantly affecting the quality of the human environment in Montana a detailed statement on:~~

~~(A) the environmental impact of the proposed action;~~

~~(B) any adverse effects on Montana's environment that cannot be avoided if the proposal is implemented;~~

~~(C) alternatives to the proposed action. An analysis of any alternative included in the environmental review must comply with the following criteria:~~

~~(I) any alternative proposed must be reasonable, in that the alternative must be achievable under current technology and the alternative must be economically feasible as determined solely by the economic viability for similar projects having similar conditions and physical locations and determined without regard to the economic strength of the specific project sponsor;~~

~~(II) the agency proposing the alternative shall consult with the project sponsor regarding any proposed alternative, and the agency shall give due weight and consideration to the project sponsor's comments regarding the proposed alternative;~~

~~(III) the agency shall complete a meaningful no-action alternative analysis. The no-action alternative analysis must include the projected beneficial and adverse environmental, social, and economic impact of the project's noncompletion.~~

~~(D) any regulatory impacts on private property rights, including whether alternatives that reduce, minimize, or eliminate the regulation of private property rights have been analyzed. The analysis in this subsection (1)(b)(iv)(D) need not be prepared if the proposed action does not involve the regulation of private property.~~

~~(E) the relationship between local short-term uses of the Montana human environment and the maintenance and enhancement of long-term productivity;~~

~~(F) any irreversible and irretrievable commitments of resources that would be involved in the proposed action if it is implemented;~~

~~(G) the customer fiscal impact analysis, if required by 69-2-216; and~~

~~(H) the details of the beneficial aspects of the proposed project, both short-term and long-term, and the economic advantages and disadvantages of the proposal;~~

~~(v) in accordance with the criteria set forth in subsection (1)(b)(iv)(C), study, develop, and describe appropriate alternatives to recommend courses of action in any proposal that involves unresolved conflicts concerning alternative uses of available resources. If the alternatives analysis is conducted for a project that is not a state-sponsored project and alternatives are recommended, the project sponsor may volunteer to implement the alternative. Neither the alternatives analysis nor the resulting recommendations bind the project sponsor to take a recommended course of action, but the project sponsor may agree pursuant to subsection (4)(b) to a specific course of action.~~

~~(vi) recognize the potential long-range character of environmental impacts in Montana and, when consistent with the policies of the state, lend appropriate support to initiatives, resolutions, and programs designed to maximize cooperation in anticipating and preventing a decline in the quality of Montana's environment;~~

~~(vii) make available to counties, municipalities, institutions, and individuals advice and information useful in restoring, maintaining, and enhancing the quality of Montana's environment;~~

~~(viii) initiate and use ecological information in the planning and development of resource-oriented projects; and~~

~~(ix) assist the legislature and the environmental quality council established by 5-16-101;~~

~~(c) prior to making any detailed statement as provided in subsection (1)(b)(iv), the responsible state official shall consult with and obtain the comments of any state agency that has jurisdiction by law or special expertise with respect to any environmental impact involved in Montana and with any Montana local government, as defined in 7-12-1103, that may be directly impacted by the project. The responsible state official shall also consult with and obtain comments from any state agency in Montana with respect to any regulation of private property involved. Copies of the statement and the comments and views of the appropriate state, federal, and local agencies that are authorized to develop and enforce environmental standards must be made available to the governor, the environmental quality council, and the public and must accompany the proposal through the existing agency review processes.~~

~~(d) a transfer of an ownership interest in a lease, permit, license, certificate, or other entitlement for use or permission to act by an agency, either singly or in combination with other state agencies, does not trigger review under subsection (1)(b)(iv) if there is not a material change in terms or conditions of the entitlement or unless otherwise provided by law.~~

~~(2) (a)~~ ~~Except as provided in subsection (2)(b), an environmental review conducted pursuant to subsection (1) may not include a review of actual or potential impacts beyond Montana's borders. It may not include actual or potential impacts that are regional, national, or global in nature.~~

~~(b) An environmental review conducted pursuant to subsection (1) may include a review of actual or potential impacts beyond Montana's borders if it is conducted by:~~

~~(i) the department of fish, wildlife, and parks for the management of wildlife and fish;~~

~~(ii) an agency reviewing an application for a project that is not a state-sponsored project to the extent that the review is required by law, rule, or regulation; or~~

~~(iii) a state agency and a federal agency to the extent the review is required by the federal agency.~~

~~(3) The department of public service regulation, in the exercise of its regulatory authority over rates and charges of railroads, motor carriers, and public utilities, is exempt from the provisions of parts 1 through 3.~~

~~(4) (a)~~ ~~The agency may not withhold, deny, or impose conditions on any permit or other authority to act based on parts 1 through 3 of this chapter.~~

~~(b) Nothing in this subsection (4) prevents a project sponsor and an agency from mutually developing measures that may, at the request of a project sponsor, be incorporated into a permit or other authority to act.~~

~~(c) Parts 1 through 3 of this chapter do not confer authority to an agency that is a project sponsor to modify a proposed project or action.~~

~~(5) (a)~~ ~~(i)~~ ~~A challenge to an agency action under this part may only be brought against a final agency action and may only be brought in district court or in federal court, whichever is appropriate.~~

~~(ii) Any action or proceeding challenging a final agency action alleging failure to comply with or inadequate compliance with a requirement under this part must be brought within 60 days of the action that is the subject of the challenge.~~

~~(iii) For an action taken by the board of land commissioners or the department of natural resources~~

~~and conservation under Title 77, "final agency action" means the date that the board of land commissioners or the department of natural resources and conservation issues a final environmental review document under this part or the date that the board approves the action that is subject to this part, whichever is later.~~

~~(b) Any action or proceeding under subsection (5)(a)(ii) must take precedence over other cases or matters in the district court unless otherwise provided by law.~~

~~(c) Any judicial action or proceeding brought in district court under subsection (5)(a) involving an equine slaughter or processing facility must comply with 81-9-240 and 81-9-241.~~

~~(6) (a) (i) In an action alleging noncompliance or inadequate compliance with a requirement of parts 1 through 3, including a challenge to an agency's decision that an environmental review is not required or a claim that the environmental review is inadequate, the agency shall compile and submit to the court the certified record of its decision at issue, and except as provided in subsection (6)(b), the person challenging the decision has the burden of proving the claim by clear and convincing evidence contained in the record.~~

~~(ii) Except as provided in subsection (6)(b), in a challenge to the agency's decision or the adequacy of an environmental review, a court may not consider any information, including but not limited to an issue, comment, argument, proposed alternative, analysis, or evidence, that was not first presented to the agency for the agency's consideration prior to the agency's decision or within the time allowed for comments to be submitted.~~

~~(iii) Except as provided in subsection (6)(b), the court shall confine its review to the record certified by the agency. The court shall affirm the agency's decision or the environmental review unless the court specifically finds that the agency's decision was arbitrary and capricious or was otherwise not in accordance with law.~~

~~(iv) A customer fiscal impact analysis pursuant to 69-2-216 or an allegation that the customer fiscal impact analysis is inadequate may not be used as the basis of an action challenging or seeking review of the agency's decision.~~

~~(b) (i) When a party challenging the decision or the adequacy of the environmental review or decision presents information not in the record certified by the agency, the challenging party shall certify under oath in an affidavit that the information is new, material, and significant evidence that was not publicly available before the agency's decision and that is relevant to the decision or the adequacy of the agency's environmental~~

~~review.~~

~~(ii) If upon reviewing the affidavit the court finds that the proffered information is new, material, and significant evidence that was not publicly available before the agency's decision and that is relevant to the decision or to the adequacy of the agency's environmental review, the court shall remand the new evidence to the agency for the agency's consideration and an opportunity to modify its decision or environmental review before the court considers the evidence as a part of the administrative record under review.~~

~~(iii) If the court finds that the information in the affidavit does not meet the requirements of subsection (6)(b)(i), the court may not remand the matter to the agency or consider the proffered information in making its decision.~~

~~(c) (i) The remedies provided in this section for successful challenges to a decision of the agency or the adequacy of the statement are exclusive.~~

~~(ii) Notwithstanding the provisions of 27-19-201 and 27-19-314, a court having considered the pleadings of parties and intervenors~~ who are ~~requesting a temporary restraining order or preliminary injunction~~ or ~~who are opposing a request for a temporary restraining order, preliminary injunction, permanent injunction, or other equitable relief may not enjoin the issuance or effectiveness of a license or permit or a part of a license or permit issued pursuant to Title 75 or Title 82 unless the court specifically finds that the party requesting the relief is more likely than not to prevail on the merits of its complaint given the uncontroverted facts in the record and applicable law and, in the absence of a temporary restraining order, a preliminary injunction, a permanent injunction, or other equitable relief, that the:~~

~~(A) party requesting the relief will suffer irreparable harm in the absence of the relief;~~

~~(B) issuance of the relief is in the public interest. In determining whether the grant of the relief is in the public interest, a court:~~

~~(I) may not consider the legal nature or character of any party; and~~

~~(II) shall consider the implications of the relief on the local and state economy and make written findings with respect to both.~~

~~(C) relief is as narrowly tailored as the facts allow to address both the alleged noncompliance and the irreparable harm the party asking for the relief will suffer. In tailoring the relief, the court shall ensure, to the extent possible, that the project or as much of the project as possible can go forward while also providing the~~

~~relief to which the applicant has been determined to be entitled.~~

~~(d) The court may issue a temporary restraining order, preliminary injunction, permanent injunction, or other injunctive relief only if the party seeking the relief provides a written undertaking to the court in an amount reasonably calculated by the court as adequate to pay the costs and damages sustained by any party that may be found to have been wrongfully enjoined or restrained by a court through a subsequent judicial decision in the case. If the party seeking an injunction or a temporary restraining order objects to the amount of the written undertaking for any reason, including but not limited to its asserted inability to pay, that party shall file an affidavit with the court that states the party's income, assets, and liabilities in order to facilitate the court's consideration of the amount of the written undertaking that is required. The affidavit must be served on the party enjoined.~~

~~(e) An individual or entity seeking a lease, permit, license, certificate, or other entitlement or authority to act may intervene in a lawsuit in court challenging a decision or statement by a department or agency of the state as a matter of right if the individual or entity has not been named as a defendant.~~

~~(f) Attorney fees or costs may not be awarded to the prevailing party in an action alleging noncompliance or inadequate compliance with a requirement of parts 1 through 3.~~

~~(7) For purposes of judicial review, to the extent that the requirements of this section are inconsistent with the provisions of the National Environmental Policy Act, the requirements of this section apply to an environmental review or any severable portion of an environmental review within the state's jurisdiction that is being prepared by a state agency pursuant to this part in conjunction with a federal agency proceeding pursuant to the National Environmental Policy Act.~~

~~(8) The director of the agency responsible for the determination or recommendation shall endorse in writing any determination of significance made under subsection (1)(b)(iv) or any recommendation that a determination of significance be made.~~

~~(9) A project sponsor may request a review of the significance determination or recommendation made under subsection (8) by the appropriate board, if any. The appropriate board may, at its discretion, submit an advisory recommendation to the agency regarding the issue. The period of time between the request for a review and completion of a review under this subsection may not be included for the purposes of determining compliance with the time limits established for environmental review in 75-1-208.~~ "

NEW SECTION. **SECTION 4. SEVERABILITY**. IF A PART OF [THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS ACT] IS INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID APPLICATIONS.

NEW SECTION. **SECTION 5. EFFECTIVE DATE**. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

- END -

AN ACT REVISING PRELIMINARY INJUNCTION AND TEMPORARY RESTRAINING ORDER LAWS; INCORPORATING THE FEDERAL STANDARD FOR A PRELIMINARY INJUNCTION INTO MONTANA LAW AS THE GENERAL STANDARD FOR A PRELIMINARY INJUNCTION OR TEMPORARY RESTRAINING ORDER; REQUIRING THE APPLICANT FOR A PRELIMINARY INJUNCTION OR TEMPORARY RESTRAINING ORDER TO SHOW WHY AN INJUNCTION OR TEMPORARY RESTRAINING ORDER SHOULD BE GRANTED; PROVIDING A DECLARATION OF LEGISLATIVE INTENT; AMENDING SECTIONS 27-19-201, 27-19-301, AND 27-19-315, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-19-201, MCA, is amended to read:

"**27-19-201. When preliminary injunction may be granted -- legislative intent.** ~~An injunction order may be granted in the following cases:~~

~~(1) when it appears that the applicant is entitled to the relief demanded and the relief or any part of the relief consists in restraining the commission or continuance of the act complained of, either for a limited period or perpetually;~~

~~(2) when it appears that the commission or continuance of some act during the litigation would produce a great or irreparable injury to the applicant;~~

~~(3) when it appears during the litigation that the adverse party is doing or threatens or is about to do or is procuring or suffering to be done some act in violation of the applicant's rights, respecting the subject of the action, and tending to render the judgment ineffectual;~~

(1) A preliminary injunction order or temporary restraining order may be granted when the applicant establishes that:

(a) the applicant is likely to succeed on the merits;

(b) the applicant is likely to suffer irreparable harm in the absence of preliminary relief;

(c) the balance of equities tips in the applicant's favor; and

(d) the order is in the public interest.

(2) An injunction order may be granted in either of the following cases between persons, not including a person being sued in that person's official capacity:

~~(4)~~(a) when it appears that the adverse party, ~~during the pendency of~~ while the action is pending, threatens or is about to remove or to dispose of the adverse party's property with intent to defraud the applicant, in which case an injunction order may be granted to restrain the removal or disposition; or

~~(5)~~(b) when it appears that the applicant has applied for an order under the provisions of 40-4-121 or an order of protection under Title 40, chapter 15.

(3) The applicant for an injunction provided for in this section bears the burden of demonstrating the need for an injunction order.

(4) It is the intent of the legislature that the language in subsection (1) mirror the federal preliminary injunction standard, and that interpretation and application of subsection (1) closely follow United States supreme court case law."

Section 2. Section 27-19-301, MCA, is amended to read:

"**27-19-301. Notice of application -- hearing.** (1) No preliminary injunction order may be issued without reasonable notice to the adverse party of the time and place ~~of the making of the application therefor~~ that application for the injunction order was made.

(2) Before granting an injunction order, the court or judge shall make an order requiring cause to be shown, at a specified time and place, why the injunction should ~~not~~ be granted, and the adverse party may in the meantime be restrained as provided in 27-19-314."

Section 3. Section 27-19-315, MCA, is amended to read:

"**27-19-315. When restraining order may be granted without notice.** A temporary restraining order may be granted without written or oral notice to the adverse party or the party's attorney only if:

(1) ~~it clearly appears from specific facts shown by affidavit or by the verified complaint that a delay~~

~~would cause immediate and irreparable injury to the applicant before the adverse party or the party's attorney could be heard in opposition~~ the applicant or the applicant's attorney makes a showing that the requirements of 27-19-201(1) are met; ~~and~~ and

(2) the applicant or the applicant's attorney certifies to the court in writing the efforts, if any, that have been made to give notice and the reasons supporting the applicant's claim that notice should not be required."

Section 4. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 5. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,

SB 191, originated in the Senate.

_____

Secretary of the Senate

_____

President of the Senate

Signed this _____day

of_____, 2023.

_____

Speaker of the House

Signed this _____day

of_____, 2023.

SENATE BILL NO. 191

INTRODUCED BY S. FITZPATRICK

AN ACT REVISING PRELIMINARY INJUNCTION AND TEMPORARY RESTRAINING ORDER LAWS; INCORPORATING THE FEDERAL STANDARD FOR A PRELIMINARY INJUNCTION INTO MONTANA LAW AS THE GENERAL STANDARD FOR A PRELIMINARY INJUNCTION OR TEMPORARY RESTRAINING ORDER; REQUIRING THE APPLICANT FOR A PRELIMINARY INJUNCTION OR TEMPORARY RESTRAINING ORDER TO SHOW WHY AN INJUNCTION OR TEMPORARY RESTRAINING ORDER SHOULD BE GRANTED; PROVIDING A DECLARATION OF LEGISLATIVE INTENT; AND AMENDING SECTIONS 27-19-201, 27-19-301, AND 27-19-315, AND 75-1-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Montana State Legislature

2023 Session

Additional Documents

May include the following:

- Business Report
- Roll Call -Attendance
- Standing Committee Reports
- Tabled Bills
- Fiscal Reports [if any]
- Roll Call Votes
- Proxy's
- Visitors sign in sheet.
- Informational Item's
- Witness Statements
- Zoom/Internet Testimony Information
- Any other type of documents such as:
  @ Petitions, {if any} Emails, all documents given to Committee Secretary after meeting. The original exhibit/items are on file at the Montana Historical Society and may be viewed there.

Montana Historical Society Archives,
225 N. Roberts, Helena, MT 59620-1201
E-Document Specialist Susie Hamilton

BUSINESS REPORT

MONTANA SENATE

REGULAR

(S) Judiciary

Date: 01/24/2023 **Time:** 9:00 AM

Place: Capitol **Room:** 303

BILLS and RESOLUTIONS HEARD:

SB 182 Create task force on a court system for dependency and neglect cases - Sen. Dennis Lenz

SB 184 Revise procedural requirements in child abuse and neglect proceedings - Sen. Dennis Lenz

SB 191 Revise preliminary injunction laws - Sen. Steve Fitzpatrick

EXECUTIVE ACTION TAKEN:

HB 18:

HB 18 Be Concurred In as Amended

SB 148:

SB 148 Do Pass

SB 94:

SB 94 Do Pass as Amended

Comments:

Sen. Keith Regier R, Chair

Senate

Roll Call

(S) Judiciary

DATE: 01/24/2023
TIME: 9:00 AM

NAME	PRESENT	ABSENT/EXCUSED
Brown, Bob	X	
Emrich, Daniel	X	
Friedel, Chris	X	
Gross, Jen	X	
Hinebauch, Steve	X	
Kelker, Kathy		X
Manzella, Theresa	X	
Olsen, Andrea	X	
Regier, Keith	X	
Usher, Barry	X	
Webber, Susan	X	

Senate Standing Committee Report

January 24, 2023

To the President,

We, your committee on **(S) Judiciary** report that **Senate Bill 94** (first reading copy – white) **Do Pass as Amended**. The referenced amendment is SB0094.001.004.

Signed: Keith Regier

Sen. Keith Regier-R, Chair

-End-

Committee Vote:

Yes 9, No 2

SENATE BILL NO. 94

INTRODUCED BY B. USHER

BY REQUEST OF THE CRIMINAL JUSTICE OVERSIGHT COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING REQUIREMENTS AND PROHIBITING CERTAIN PRACTICES FOR RECOVERY RESIDENCES; CREATING A REGISTRY OF RECOVERY RESIDENCES IN MONTANA; REQUIRING CERTIFICATION FOR A RECOVERY RESIDENCE TO RECEIVE RENTAL VOUCHERS AND TRANSITIONAL ASSISTANCE FUNDS FROM THE DEPARTMENT OF CORRECTIONS; PROVIDING DEFINITIONS; AMENDING SECTION 46-23-1041, MCA; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, Montanans facing addiction deserve the highest quality of care and support; and

WHEREAS, recovery residences can provide a healthy, sober living environment that helps individuals with substance use disorders achieve and maintain sobriety; and

WHEREAS, it is crucial that recovery residences implement best practices and sound operating procedures that enable and empower residents to gain access to community support, public services, and therapeutic treatments to advance their recovery and develop independence.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Definitions.** As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Alcohol and drug prevention or treatment facility" means a recovery residence, hospital, health or counseling center, or other entity providing alcohol and drug services.

(2) "Alcohol and drug services" includes evaluation, treatment, residential personal care, habilitation, rehabilitation, counseling, or supervision of persons with substance use disorders or services to persons designed to prevent substance use disorders that either receive funds from the department of public health and human services or assess fees for services provided.

(3) "Certified recovery residence" means a recovery residence, as defined in subsection (8), that has received certification or another form of approval from a certifying organization, as defined in subsection (4).

(4) "Certifying organization" means a recovery residence standards organization or an affiliate of a recovery residence standards organization that operates in the state of Montana and is recognized by the department of public health and human services.

(5) "Levels of care" means the continuum of support ranging from nonclinical recovery residences to licensed clinical treatment.

(6) "Minor" means an individual under 18 years of age without regard to sex.

(7) "Qualified health care provider" means a person licensed as a physician, psychologist, social worker, clinical professional counselor, marriage and family therapist, addiction counselor, or another appropriate licensed health care practitioner.

(8) "Recovery residence" means a sober living home with a safe, family-like environment that promotes recovery from substance use disorders through services including but not limited to peer support, mutual support groups, and recovery services.

(9) "Sober" means free of alcohol and drugs, except for prescription medications taken as directed by a licensed prescriber, including medications approved by the United States food and drug administration for the treatment of opioid use disorder.

(10) (a) "Substance use disorder" means the use of any chemical substance, legal or illegal, that creates behavioral or health problems, or both, resulting in operational impairment.

(b) This term includes alcoholism, drug dependency, or both, that endanger the health, interpersonal relationships, or economic functions of an individual or the public health, safety, or welfare.

NEW SECTION. **Section 2. Recovery residence requirements.** (1) A recovery residence must register with the department of public health and human services.

(2) A recovery residence may seek certification from a certifying organization.

(3) A recovery residence must have policies and protocols for the following:

(a) administrative oversight;

(b) quality standards;

(c) its residents;

(d) emergencies, including fire, natural disasters, and health emergencies, including overdose; and

(e) eviction of a resident, including the return of the resident's personal effects and property.

(4) A recovery residence must meet state and municipal requirements that apply to a residence's dwelling size and occupancy, including but not limited to safety requirements, building codes, zoning regulations, and local ordinance requirements.

(5) A recovery residence must keep opioid-overdose drugs on site in an easily accessible place and train staff and residents on the use of opioid-overdose drugs.

(6) Minor children of residents may reside with their parent in a certified recovery residence if allowed in the residence's policies and protocols and if the residence maintains an environment consistent with the welfare of minor residents.

(7) The recovery residence may not limit a resident's duration of stay to an arbitrary or fixed amount of time. Each resident's duration of stay is determined by the resident's needs, progress, and willingness to abide by the recovery residence's protocols in collaboration with the recovery residence's owner and operator and, if appropriate, in consultation with a qualified health care provider.

(8) The recovery residence may permit residents to receive medication-assisted treatment.

(9) (a) Each recovery residence shall provide an annual compliance report to the certifying organization.

(b) The certifying organization shall provide an annual compliance report, in accordance with 5-11-210, to the criminal justice oversight council.

NEW SECTION. **Section 3. Recovery residence prohibitions.** (1) The operator or staff of a recovery residence may not:

(a) make a materially false or misleading statement or provide materially false or misleading information about the residence's identity, products, goods, services, or geographical locations in its marketing and advertising materials, media, and website;

(b) include on a website false information or electronic links, coding, or activation that provides

false information or that surreptitiously directs the reader to another website;

(c) solicit, receive, or make an attempt to solicit or receive a commission, benefit, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, in return for a referral or an acceptance or acknowledgement of treatment from a qualified health care provider, provider of alcohol and drug services, or alcohol and drug prevention or treatment facility;

(d) engage or make an attempt to engage in a split-fee arrangement in return for a referral or an acceptance or acknowledgement of treatment from a qualified health care provider, provider of alcohol and drug services, or alcohol and drug prevention or treatment facility; or

(e) enter into a contract with a marketing provider who agrees to generate referrals or leads for the placement of patients with a qualified health care provider, provider of alcohol and drug services, or alcohol and drug prevention or treatment facility through a call center or a web-based presence unless this contract is disclosed to the prospective patient or resident.

(2) In addition to any other penalty authorized by law, a recovery residence that knowingly violates this section is subject to prosecution and penalties pursuant to the Montana Consumer Protection Act, Title 30, chapter 14, part 1.

NEW SECTION. **Section 4. Powers and duties of department of public health and human services.** The department of public health and human services shall:

(1) maintain a registry of recovery residences in the state;

(2) include on its website a public-facing list of certifying organizations that operate in the state and are recognized by the department;

(3) include on its website a public-facing list of recovery residences in the state that indicates which recovery residences are certified recovery residences.

NEW SECTION. **Section 5. Preferential placement at and referral to certified recovery residences.** (1) The department of corrections shall establish a preference for certified recovery residences by encouraging and assisting appropriate individuals seeking placements in recovery residences.

(2) (a) A ~~qualified health care provider,~~ judge, justice of the peace, or magistrate may not refer an

individual to an uncertified recovery residence.

(b) A judge, justice of the peace, or magistrate may not refer an individual to a certified recovery residence that does not permit the individual to receive treatment or take medication prescribed by a qualified health care provider.

~~(b)~~(c) When referring an individual to a recovery residence, a qualified health care provider, judge, justice of the peace, or magistrate shall consider the:

(i) culture of the recovery residence, including but not limited to the permissiveness of unhealthy behaviors, current residents' commitment to recovery and support of other residents, requirements and support to attend and seek clinical treatment and outside nonclinical sobriety support, and the general living environment;

~~(ii) levels of care the recovery residence provides, including the type, nature, and intensity of the therapeutic services and recovery supports provided, and the ability to meet the referee's specific needs;~~

~~(iii) utilization of certified or appropriately trained peers with relevant lived experience;~~

~~(iv)~~(ii) geographic area, neighborhood, or external surrounding environment of the recovery residence;

~~(v)~~(iii) physical living environment of the recovery residence;

~~(vi) use of medication-assisted treatment in the recovery residence, including the:~~

~~(A) operator and other staff support for medication-assisted treatment;~~

~~(B) proper monitoring of the use of medication-assisted treatment;~~

~~(C) other residents' support of medication-assisted treatment; and~~

~~(D) availability of peers with medication-assisted treatment experience for residents with severe opioid use disorder;~~

~~(vii)~~(iv) level of training and professionalism of residence staff;

~~(viii)~~(v) recovery residence's reputation regarding ethical business practices, which may include but is not limited to fraud and abuse of residents;

~~(ix)~~(vi) recovery residence's relapse policy; and

~~(x)~~(vii) availability of opioid-overdose reversal drugs.

~~(3) Any qualified health care provider who violates subsection (2)(a) is subject to the suspension or~~

~~revocation of the provider's license or certificate by the appropriate licensing or certification board and the imposition of civil penalties pursuant to the relevant chapter of Title 37.~~

~~(4)~~(3) Any judge, magistrate, or justice of the peace who violates subsection (2)(a) is subject to disciplinary action by the judicial standards commission pursuant to Title 3, chapter 1, part 11.

~~(5)~~(4) Subsection (2)(a) does not otherwise limit the referral options available for a person in recovery from a substance use disorder to any other appropriate placements or services.

Section 6. Section 46-23-1041, MCA, is amended to read:

"**46-23-1041. Rental vouchers.** (1) If the department does not approve an offender's parole plan because the offender is unable to secure suitable living arrangements, the department may provide rental vouchers to the offender for a period not to exceed 3 months if the rental assistance will result in an approved parole plan.

[(2) The department shall provide a rental voucher to a claimant if required by 46-32-106(7).]

(3) The voucher [provided pursuant to subsection (1)] must be provided in conjunction with additional transition support that enables the offender to participate in programs and services, including but not limited to substance abuse treatment, mental health treatment, sex offender treatment, educational programming, or employment programming." (Bracketed language terminates June 30, 2023--sec. 15, Ch. 574, L. 2021.)

(4) To receive rental vouchers and transitional assistance funds from the department of corrections, a recovery residence must:

(a) be a certified recovery residence, as defined in [section 1(3)]; ~~and~~

(b) notify a resident's probation or parole officer within 24 hours of the resident moving out, if a resident is on probation or parole when the resident moves out of the recovery residence; and

(c) permit residents to receive treatment and take medication prescribed by a qualified health care provider."

NEW SECTION. **Section 7. Codification instruction.** [Sections 1 through 5] are intended to be codified as an integral part of Title 53, chapter 24, part 3, and the provisions of Title 53, chapter 24, part 3,

Senate Standing Committee Report

January 24, 2023

To the President,

We, your committee on **(S) Judiciary** report that **Senate Bill 148** (first reading copy – white) **Do Pass**.

Signed: _____

Sen. Keith Regier-R, Chair

-End-

Committee Vote:

Yes 9, No 2

Senate Standing Committee Report

January 24, 2023

To the President,

We, your committee on **(S) Judiciary** report that **House Bill 18** (first reading copy – white) **Be Concurred In as Amended**. The referenced amendment is HB0018.001.002.

Carrier: Sen. Webber

Signed: _____

Sen. Keith Regier-R, Chair

-End-

Committee Vote:

Yes 11, No 0

HOUSE BILL NO. 18

INTRODUCED BY T. RUNNING WOLF

BY REQUEST OF THE STATE-TRIBAL RELATIONS COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MISSING PERSONS RESPONSE TEAM TRAINING GRANT PROGRAM; CREATING THE MISSING PERSONS RESPONSE TEAM TRAINING GRANT ACCOUNT; PROVIDING A FUND TRANSFER AND AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Missing persons response team training grant program -- reporting.** (1) There is a missing persons response team training grant program administered by the department of justice. The purpose of the grant program is to help fund training opportunities for community-based missing persons response teams.

(2) Eligible teams may be multiagency and multijurisdictional and may include other community entities and volunteers. Eligible teams shall:

(a) establish memorandums of understanding between the involved entities;

(b) develop operational procedures and criteria under which a team activation can occur; and

(c) participate in a community action planning effort conducted in accordance with department guidelines.

(3) Eligible training expenses include but are not limited to the licensing costs of a training program, facilitator and conference location fees, and travel expenses for training staff and trainees.

(4) The department shall report, in accordance with 5-11-210, on the grants awarded pursuant to this section to the state-tribal relations committee provided for in 5-5-229 by July 1 prior to each regular legislative session.

NEW SECTION. **Section 2. Missing persons response team training grant account.** (1) There is

a missing persons response team training grant account in the state special revenue fund established in 17-2-102. The account is administered by the department of justice.

(2) Money transferred from any lawful source, including but not limited to gifts, grants, donations, securities, and other assets, public or private, may be deposited in the account.

(3) Money deposited in the account must be used pursuant to [section 1].

(4) Up to 10% of the funds deposited in the missing persons response team training grant account each year may be used for administrative costs by the department.

(5) Interest and income earned on the account and any unspent or unencumbered money in the account at the end of a fiscal year must remain in the account.

NEW SECTION. **Section 3. Transfer of funds.** By July 15, 2023, the state treasurer shall transfer $61,000 from the state general fund to the missing persons response team training grant account established in [section 2].

NEW SECTION. **Section 4. Appropriation.** For the biennium beginning July 1, 2023, there is appropriated $61,000 from the missing persons response team training grant account established in [section 2] to the department of justice for the purposes described in [section 1].

NEW SECTION. **Section 5. Notification to tribal governments -- county sheriffs.** The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana and to the sheriff of each county in Montana.

NEW SECTION. **Section 6. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 44, chapter 2, part 4, and the provisions of Title 44, chapter 2, part 4, apply to [sections 1 through 2].

NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 2023.

- END -

SENATE COMMITTEE ON (S) JUDICIARY
January 24, 2023
VOTE TABULATION - SB 94

Sen. Gross made a Motion that Segregation Amendment Other
YEAS – 6 NAYS - 5

N	Brown, Bob
N	Emrich, Daniel
N	Friedel, Chris
Y	Gross, Jen
N	Hinebauch, Steve
Y	Kelker, Kathy; by proxy
N	Manzella, Theresa
Y	Olsen, Andrea
Y	Regier, Keith
Y	Usher, Barry
Y	Webber, Susan

SENATE COMMITTEE ON (S) JUDICIARY
January 24, 2023
VOTE TABULATION - SB 94

Sen. Usher made a Motion that SB 94 Do Pass as Amended
YEAS – 9 NAYS - 2

Y	Brown, Bob
N	Emrich, Daniel
N	Friedel, Chris
Y	Gross, Jen
Y	Hinebauch, Steve
Y	Kelker, Kathy; by proxy
Y	Manzella, Theresa
Y	Olsen, Andrea
Y	Regier, Keith
Y	Usher, Barry
Y	Webber, Susan

SENATE COMMITTEE ON (S) JUDICIARY
January 24, 2023
VOTE TABULATION - SB 148

Sen. Usher made a Motion that SB 148 Do Pass
YEAS – 9 NAYS - 2

Y	Brown, Bob
N	Emrich, Daniel
N	Friedel, Chris
Y	Gross, Jen
Y	Hinebauch, Steve; by proxy
Y	Kelker, Kathy; by proxy
Y	Manzella, Theresa
Y	Olsen, Andrea
Y	Regier, Keith
Y	Usher, Barry
Y	Webber, Susan

SENATE COMMITTEE ON (S) JUDICIARY
January 24, 2023
VOTE TABULATION - SB 148

Sen. Usher made a Motion that SB 148 Do Pass
YEAS – 9 NAYS - 2

Y	Brown, Bob
N	Emrich, Daniel
N	Friedel, Chris
Y	Gross, Jen
Y	Hinebauch, Steve; by proxy
Y	Kelker, Kathy; by proxy
Y	Manzella, Theresa
Y	Olsen, Andrea
Y	Regier, Keith
Y	Usher, Barry
Y	Webber, Susan

SENATE PROXY

I, Senator Kathy Kelker, hereby authorize Senator Gross to vote my proxy before the Senate Judiciary meeting held on 01/24/23, 2023.

Katharin A Kelker
Senator Signature

01/24/23
Date

Said authorization is as follows: *(mark only one)*

- ☑ All votes, including amendments.
- ☐ All votes as directed below on the listed bills, and all other votes.
- ☐ Votes only as directed below.

Bill No./Amendment No.	Aye	No
~~SB~~ HB 0018.001.002	✓	
HB 18 as amended once	✓	
SB 148	✓	
SB 0094.001.002	✓	
SB 0094.001.003 motion to segregate	✓	
SB 0094.001.003 segregated	✓	
SB 94 as amended twice	✓	

SENATE PROXY

I, Senator Steve Kirsbaugh, hereby authorize Senator Usher to vote my proxy before the Senate Judiciary meeting held on 1/24/23, 2023.

Senator Signature

1/24/23
Date

Said authorization is as follows: *(mark only one)*

- ☐ All votes, including amendments.
- ☐ All votes as directed below on the listed bills, and all other votes.
- ☐ Votes only as directed below.

Bill No./Amendment No.	Aye	No
Amend HB0018.001.002	X	
HB18	X	
SB148	X	

VISITORS REGISTER

MONTANA SENATE
JUDICIARY COMMITTEE

Date: January 24, 23 Bill No: SB182

Sponsor: Sen. Dennis Lenz

(Insert Short Title)

Please print ~ Please print ~ Please print ~ Please print

NAME	REPRESENTING	Support	Oppose	Informat'l
Denise Johnson	MCPA	—		
Will. Grossberg	CFSD			✓
Amanda O'Shea Tieman	MCPA / Yellowstone Ct Atty	✓		
Bob Heard	Self	✓		
Dave Keyser ~~III~~	Self	✓		
Matt Furlong	MCPA	✓		

Please leave prepared testimony with Committee Secretary. Witness Statement Forms are available if you prefer to submit written testimony.

VISITORS REGISTER

MONTANA SENATE
JUDICIARY COMMITTEE

Date: January 24, 23 Bill No: SB184

Sponsor: Sen. Dennis Renz

(Insert Short Title)

Please print ~ Please print ~ Please print ~ Please print

NAME	REPRESENTING	Support	Oppose	Informat'l
Denise Johnson	MCPA	✓		
Nikki Gashay	CFSD			✓
Amanda O'Shea Tiernan	MOAA / Yellowstone Cty Atty		✓	
Bob Leach	Self	✓		
Dave Kegler III	Self	✓		
Matt Furlong	MCPA	✓		

Please leave prepared testimony with Committee Secretary. Witness Statement Forms are available if you prefer to submit written testimony.

VISITORS REGISTER

MONTANA SENATE
JUDICIARY COMMITTEE

Date: January 24, 23 Bill No: SB191

Sponsor: Sen. Steve Fitzpatrick

(Insert Short Title)

Please print ~ Please print ~ Please print ~ Please print

NAME	REPRESENTING	Support	Oppose	Informat'l
Brent Mead	DOJ			X
Charles Robison	MT Chamber	✓		

Please leave prepared testimony with Committee Secretary. Witness Statement Forms are available if you prefer to submit written testimony.

MINUTES

MONTANA SENATE

68th LEGISLATURE - REGULAR SESSION

COMMITTEE ON (S) JUDICIARY

Call to Order: Chair Sen. Keith Regier-R, on January 24, 2023 at 9:01 AM, in 303

ROLL CALL

Members Present:	Sen. Keith Regier, Chair (R) Sen. Jen Gross, Vice Chair (D) Sen. Barry Usher, Vice Chair (R) Sen. Bob Brown (R) Sen. Daniel Emrich (R) Sen. Chris Friedel (R) Sen. Steve Hinebauch (R) Sen. Theresa Manzella (R) Sen. Andrea Olsen (D) Sen. Susan Webber (D)
Members Excused:	Sen. Kathy Kelker (D)
Staff Present:	Grace Gibney, Secretary Madelyn Krezowski, Attorney

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:

SB 182 01/19/2023
SB 184 01/19/2023
SB 191 01/19/2023

Executive Action:

HB 18
SB 148 DO PASS
SB 94 DO PASS AS AMENDED

HEARING ON SB 191 - Revise preliminary injunction laws

Opening Statement:

09:03:13 Sen. Steve Fitzpatrick (R), SD 10, opened the hearing on SB 191, Revise preliminary injunction laws.

Proponent Testimony:

09:07:13 Charles Robison, Montana Chamber of Commerce (MCC)

Opponent Testimony:

09:08:24 Derf Johnson, Montana Environmental Information Center (MEIC)

Informational Witness Testimony:

09:09:47 Brett Meade, Department of Justice (DOJ)

Questions from Committee:

09:10:22 Sen. Keith Regier

09:10:26 Sen. Steve Fitzpatrick-R

09:10:32 Sen. Andrea Olsen

09:11:40 Sen. Steve Fitzpatrick-R

09:12:19 Sen. Barry Usher

09:12:45 Derf Johnson, MEIC

09:14:04 Sen. Barry Usher

09:14:23 Sen. Steve Fitzpatrick-R

09:15:42 Sen. Jen Gross

09:15:53 Brett Meade, DOJ

09:23:30 Sen. Andrea Olsen

09:28:21 Brett Meade, DOJ

09:30:00 Sen. Susan Webber

09:30:52 Brett Meade, DOJ

09:33:20 Sen. Andrea Olsen

09:33:54 Brett Meade, DOJ

Closing Statement:

09:34:09 Sen. Steve Fitzpatrick (R), SD 10, closed the hearing on SB 191.

HEARING ON SB 182 - Create task force on a court system for dependency and neglect cases

Opening Statement:

09:35:04 Sen. Dennis Lenz (R), SD 53, opened the hearing on SB 182, Create task force on a court system for dependency and neglect cases.

Proponent Testimony:

09:39:32 Matt Furlong, Montana Child Protection Alliance (MCPA)

09:40:10 Bruce Spencer, Montana Judges Association (MJA)

09:41:05 Denise Johnson, Montana Child Protection Alliance (MCPA)

09:43:42 Amanda O'Shea Tiernan, Montana County Attorneys Office (MCAO)

09:45:35 David Kesler, self

09:48:15 Bob Leach, self

Opponent Testimony:

09:49:58 April Barnings, Montana Court Appointed Special Advocate, Guardian ad Litem Association (CASA/GAL)

Informational Witness Testimony:

09:51:42 Nikki Grossberg, Montana Child and Family Services (MCFS)

Questions from Committee:

09:52:05 Sen. Theresa Manzella

09:52:10 Sen. Dennis Lenz-R

09:53:36 Sen. Theresa Manzella

09:53:56 Bruce Spencer, MJA

09:56:38 Sen. Jen Gross

09:56:58 Bruce Spencer, MJA

09:58:12 Sen. Jen Gross

09:58:17 Sen. Dennis Lenz-R

10:00:08 Sen. Keith Regier

10:00:25 Sen. Dennis Lenz-R

Closing Statement:

10:00:51 Sen. Dennis Lenz (R), SD 53, closed the hearing on SB 182.

HEARING ON SB 184 - Revise procedural requirements in child abuse and neglect proceedings

Opening Statement:

10:02:00 Sen. Dennis Lenz (R), SD 53, opened the hearing on SB 184, Revise procedural requirements in child abuse and neglect proceedings.

Proponent Testimony:

10:06:01 Matt Furlong, Montana Child Protection Alliance (MCPA)

10:08:42 Denise Johnson, Montana Child Protection Alliance (MCPA)

10:11:35 David Kesler, self

10:16:37 Bob Leach, self

Opponent Testimony:

10:17:47 Amanda O'Shea Tiernan, Montana County Attorneys Office (MCAo)

10:29:43 Bruce Spencer, Montana Judges Association (MJA)

Informational Witness Testimony:

10:31:27 Nikki Grossberg, Montana Child and Family Services (MCFS)

10:31:42 Brian Smith, Office of Public Defender (OPD)

Questions from Committee:

10:32:23 Sen. Chris Friedel

10:32:51 Amanda O'Shea Tiernan, MCAo

10:35:02 Sen. Theresa Manzella

10:35:08 Sen. Dennis Lenz-R

10:38:47 Sen. Andrea Olsen

10:41:38 Sen. Dennis Lenz-R

10:42:47 Sen. Andrea Olsen

10:42:49 Brian Smith, OPD

10:45:30 Sen. Daniel Emrich

10:45:39 Amada O'Shea Tiernan, MCAo

10:52:11 Sen. Theresa Manzella

10:54:04 Amanda O'Shea Tiernan, MCAo

10:54:17 Sen. Keith Regier

10:54:28 Nikki Grossberg, MCFS

10:55:14 Sen. Andrea Olsen

10:55:20 Brian Smith, OPD

11:39:23 Sen. Steve Hinebauch left the meeting.

Closing Statement:

10:56:24 Sen. Dennis Lenz (R), SD 53, closed the hearing on SB 184.

EXECUTIVE ACTION ON HB 18 - Establish missing persons response team training grant program

11:27:52 **Motion:** Sen. Barry Usher moved that **HB 18 BE CONCURRED IN.**

11:27:52 **Vote:** Motion failed unanimously by voice vote.

11:27:52 **Carrier Assigned:** Sen. Susan Webber

11:28:29 **Motion:** Sen. Barry Usher moved that **HB 18 BE AMENDED.**

11:28:29 **Vote:** Motion carried unanimously by voice vote.

11:29:25 **Motion:** Sen. Barry Usher moved that **HB 18 BE CONCURRED IN AS AMENDED.**

11:29:25 **Vote:** Motion carried unanimously by voice vote.

11:29:25 **Carrier Assigned:** Sen. Susan Webber

EXECUTIVE ACTION ON SB 148 - Revise laws regarding legal representation of children

11:33:56 **Motion:** Sen. Barry Usher moved that **SB 148 DO PASS.**

11:33:56 **Vote:** Motion carried 9 - 2 by roll call vote with Sen. Emrich, Sen. Friedel, voting no.

EXECUTIVE ACTION ON SB 94 - Generally revise laws related to recovery residences

11:43:52 **Motion:** Sen. Barry Usher moved that **SB 94 DO PASS.**

11:43:52 **Vote:** Motion failed unanimously by voice vote.

11:44:28 **Motion:** Sen. Barry Usher moved that **SB 94 BE AMENDED.**

Discussion:

11:44:42 Sen. Steve Hinebauch joined the meeting.

11:45:03 Sen. Chris Friedel

11:45:38 Sen. Keith Regier

11:45:53 Sen. Jen Gross

11:45:59 Sen. Barry Usher

11:44:28 **Vote:** Motion carried unanimously by voice vote.

11:47:14 **Motion:** Sen. Daniel Emrich moved that **SB 94 BE AMENDED.**

11:47:14 **Vote:** Motion carried unanimously by voice vote.

11:52:54 **Motion:** Sen. Jen Gross moved that **SB 94 OTHER.**

11:52:54 **Vote:** Motion carried 6 - 5 by roll call vote with Sen. Brown, Sen. Emrich, Sen. Friedel, Sen. Hinebauch, Sen. Manzella, voting no.

11:55:52 **Motion:** Sen. Daniel Emrich moved that **SB 94 BE AMENDED.**

Discussion:

10:22:58 Sen. Chris Friedel

11:55:55 Sen. Keith Regier

11:56:18 Sen. Susan Webber

11:56:54 Sen. Barry Usher

11:57:11 Sen. Susan Webber

11:57:33 Sen. Keith Regier

11:57:34 Sen. Barry Usher

11:58:07 Sen. Chris Friedel

11:58:33 Sen. Jen Gross

11:59:24 Sen. Chris Friedel

11:59:50 Sen. Keith Regier

12:00:20 Sen. Chris Friedel

12:00:35 Sen. Keith Regier

12:01:04 Sen. Barry Usher

12:02:14 Sen. Keith Regier

12:02:39 Sen. Barry Usher

12:03:17 Sen. Andrea Olsen

11:55:52 **Vote:** Motion carried unanimously by roll call vote.

12:04:26 **Motion:** Sen. Barry Usher moved that **SB 94 DO PASS AS AMENDED.**

12:04:26 **Vote:** Motion carried 9 - 2 by roll call vote with Sen. Emrich, Sen. Friedel, voting no.

ADJOURNMENT

Adjournment: 12:08:03

Grace Gibney, Secretary

Additional Documents:EXHIBIT(230124JUSaad)

Montana State Legislature

2023 Session

Additional Documents

May include the following:

- Business Report
- Roll Call -Attendance
- Standing Committee Reports
- Tabled Bills
- Fiscal Reports [if any]
- Roll Call Votes
- Proxy's
- Visitors sign in sheet.
- Informational Item's
- Witness Statements
- Zoom/Internet Testimony Information
- Any other type of documents such as:
  @ Petitions, {if any} Emails, all documents given to Committee Secretary after meeting. The original exhibit/items are on file at the Montana Historical Society and may be viewed there.

Montana Historical Society Archives,
225 N. Roberts, Helena, MT 59620-1201
E-Document Specialist Susie Hamilton

BUSINESS REPORT

MONTANA SENATE

REGULAR

(S) Judiciary

Date: 01/26/2023 **Time:** 9:00 AM

Place: Capitol **Room:** 303

BILLS and RESOLUTIONS HEARD:

HB 111 Revise laws related to assignment of counsel at public expense - Sen. Jodee Etchart

HB 83 Revise administration of Family Violence Prevention Services Act grants - Sen. Amy Regier

SB 201 Revise judicial recusal laws when parties made campaign contributions - Sen. Greg Hertz

EXECUTIVE ACTION TAKEN:

HB 111:

HB 111 Be Concurred In

HB 149:

HB 149 Be Concurred In

HB 83:

HB 83 Be Concurred In

SB 160:

SB 160 Do Pass as Amended

SB 171:

SB 171 Do Pass as Amended

SB 183:

SB 183 Do Pass

SB 191:

SB 191 Do Pass as Amended

SR 6:

SR 6 Do Pass

Comments:

Sen. Keith Regier-R, Chair

Senate

Roll Call

(S) Judiciary

DATE: 01/26/2023
TIME: 9:00 AM

NAME	PRESENT	ABSENT/EXCUSED
Brown, Bob	X	
Emrich, Daniel	X	
Friedel, Chris	X	
Gross, Jen	X	
Hinebauch, Steve	X	
Kelker, Kathy		X
Manzella, Theresa	X	
Olsen, Andrea	X	
Regier, Keith	X	
Usher, Barry	X	
Webber, Susan	X	

CORRECTED COPY

Senate Standing Committee Report

January 26, 2023

To the President,

We, your committee on **(S) Judiciary** report that **Senate Resolution 6** (first reading copy – white) **Be Adopted**.

Signed: _____

Sen. Keith Regier-R, Chair

-End-

Committee Vote:

Yes 7, No 4

Senate Standing Committee Report

January 26, 2023

To the President,

We, your committee on **(S) Judiciary** report that **House Bill 111** (first reading copy – white) **Be Concurred In**.

Carrier: Sen. Usher

Signed: Keith Regier

Sen. Keith Regier-R, Chair

-End-

Committee Vote:

Yes 11, No 0

Senate Standing Committee Report

January 26, 2023

To the President,

We, your committee on **(S) Judiciary** report that **House Bill 83** (first reading copy – white) **Be Concurred In**.

Carrier: Sen. Gross

Signed: Keith Regier

Sen. Keith Regier-R, Chair

-End-

Committee Vote:

Yes 11, No 0

Senate Standing Committee Report

January 26, 2023

To the President,

We, your committee on **(S) Judiciary** report that **Senate Resolution 6** (first reading copy – white) **Do Pass**.

Signed: _____

Sen. Keith Regier-R, Chair

-End-

Committee Vote:

Yes 7, No 4

Senate Standing Committee Report

January 26, 2023

To the President,

We, your committee on **(S) Judiciary** report that **Senate Bill 183** (first reading copy – white) **Do Pass**.

Signed: Keith Regier

Sen. Keith Regier-R, Chair

-End-

Committee Vote:

Yes 7, No 4

Senate Standing Committee Report

January 26, 2023

To the President,

We, your committee on **(S) Judiciary** report that **House Bill 149** (first reading copy – white) **Be Concurred In**.

Carrier: Sen. Emrich

Signed: Keith Regier

Sen. Keith Regier-R, Chair

-End-

Committee Vote:

Yes 11, No 0

Senate Standing Committee Report

January 26, 2023

To the President,

We, your committee on **(S) Judiciary** report that **Senate Bill 171** (first reading copy – white) **Do Pass as Amended**. The referenced amendment is SB0171.001.001.

Signed: Keith Regier

Sen. Keith Regier-R, Chair

-End-

Committee Vote:

Yes 10, No 1

SENATE BILL NO. 171

INTRODUCED BY K. REGIER

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF CORRECTIONS TO DISTRIBUTE AN INMATE'S TRUST ACCOUNT FUNDS AND TANGIBLE PERSONAL PROPERTY AFTER AN INMATE DIES WHILE INCARCERATED; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Disposition of inmate trust account funds and tangible personal property.** (1) A state inmate who is incarcerated in a state prison, as defined in 53-30-101, ~~may at any time~~ shall complete a department form designating a beneficiary by name. The beneficiary is entitled to the inmate's trust account funds and to the tangible personal property located on the state prison premises if the inmate dies while incarcerated at the state prison.

(2) The department shall develop a form conforming to the requirements of 72-2-522(2) to provide for the disposition of the inmate's trust account funds and tangible personal property. The form must conspicuously state that the inmate may modify or revoke the instrument at any time if the inmate makes a request to the warden or the warden's designee.

(3) (a) The department shall distribute a deceased inmate's trust account funds and tangible personal property to the beneficiary in accordance with the terms of the form and may not require other processes to distribute the funds.

(b) If the inmate's beneficiary or other person with priority under 37-19-904 refuses to take custody of the inmate's remains and the department pays for the cremation or burial, the costs of the disposition of the remains must be deducted from the inmate's trust account.

(c) The department may not deduct funds from the deceased inmate's trust account on or after the inmate's date of death to be applied to inmate obligations provided for in 53-1-107.

(d) The department may not distribute trust account funds until at least 45 days after the inmate's death to ensure that any accrued earnings or refunds that are due to the inmate are properly credited to the

inmate's trust account before distribution.

(4) A department employee may not be named as beneficiary unless the employee is the inmate's next of kin.

(5) If the department cannot locate the inmate's designated beneficiary within a reasonable period of time after the inmate's death, the department shall transfer the inmate's trust account funds to the department of revenue in accordance with Title 70, chapter 9, part 8, and the tangible personal property items may be destroyed.

NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 53, chapter 1, part 1, and the provisions of Title 53, chapter 1, part 1, apply to [section 1].

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

- END -

Senate Standing Committee Report

January 26, 2023

To the President,

We, your committee on **(S) Judiciary** report that **Senate Bill 160** (first reading copy – white) **Do Pass as Amended**. The referenced amendment is SB0160.001.001.

Signed: Keith Regier

Sen. Keith Regier-R, Chair

-End-

Committee Vote:

Yes 9, No 2

SENATE BILL NO. 160

INTRODUCED BY B. MOLNAR, K. REGIER, J. SMALL, L. DEMING

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO DRUG OR HUMAN TRAFFICKING; PROVIDING A REWARD FOR INFORMATION LEADING TO THE CONVICTION OF DRUG OR HUMAN TRAFFICKERS; REQUIRING A SIGN PROCLAIMING A REWARD AT ALL PORTS OF ENTRY, AIRPORTS, RAILWAY STATIONS, AND BUS STATIONS; EXEMPTING THE REWARD FROM TAXATION; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, Montana's law enforcement of all types is spread thin over 147,000 square miles; and

WHEREAS, like all states and territories, Montana is experiencing a "Meth, Fentanyl, and Heroin Epidemic"; and

WHEREAS, all illegal drugs are a scourge on Montana; and

WHEREAS, Montana recently settled several lawsuits against pharmaceutical companies involving opiate deaths, injuries, and damages; and

WHEREAS, Montana received significant sums of money as part of the settlement of these lawsuits; and

WHEREAS, these funds should be spent on combatting the problems caused by illegal drugs, drug smuggling, and human trafficking in Montana; and

WHEREAS, human trafficking destroys all that come into contact with it; and

WHEREAS, drug smugglers and human traffickers rely on a culture of trust between coperpetrators; and

WHEREAS, the easiest way to make drug smugglers and human traffickers stop doing business in Montana is to destroy their culture of trust.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Trafficking of illegal drugs -- human trafficking -- reward -- creation**

of sign. (1) (a) A person, not including peace officers, prosecutors, or judicial officers, who furnishes actionable information to a law enforcement officer leading to a conviction for any of the following must be paid a reward of $50,000:

(i) an offense under Title 45, chapter 9, part 1;

(ii) a felony related to the illegal trafficking or distribution of a Schedule I drug under 50-32-222, except marijuana, or a Schedule II drug under 50-32-224 with a street value of at least $10,000 as determined by the prosecutor; or

(iii) a felony related to human trafficking as defined in 45-5-701.

(b) The department of justice shall develop a secure system for receiving and verifying tips to law enforcement.

(2) The department of transportation shall create a sign proclaiming the $50,000 reward as provided in subsection (1):

(a) that is the same standard size as the "Welcome to Montana" signs posted at all ports of entry into the state; and

(b) in a size-appropriate manner, with permission, in airports as defined in 67-1-101, railway stations or terminals, and bus stations or terminals.

(3) The reward is exempt from garnishment, restitution, attorney fees, and state taxation.

(4) (a) The identity of an informant is not required if:

~~(a)~~(i) disclosure would result in substantial risk to the informant or the informant's family; or

~~(b)~~(ii) maintaining informant confidentiality prevents a successful prosecution and the informant may not receive an award.

(b) Tactics used by law enforcement during an investigation of an informant's tip must maximize the protection of an informant's identity.

(5) If more than one family member or partner as defined in 45-5-206(2) gives information leading to a conviction, only one reward may be given.

(6) Except as provided in subsection (5), if more than one person gives information leading to a conviction and the total reward for one conviction exceeds $100,000, the prosecutor shall decide how to divide the reward on an equitable basis.

Senate Standing Committee Report

January 26, 2023

To the President,

We, your committee on **(S) Judiciary** report that **Senate Bill 191** (first reading copy – white) **Do Pass as Amended**. The referenced amendment is SB0191.001.005.

Signed: Keith Regier

Sen. Keith Regier-R, Chair

-End-

Committee Vote:

Yes 7, No 4

SENATE BILL NO. 191

INTRODUCED BY S. FITZPATRICK

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PRELIMINARY INJUNCTION AND TEMPORARY RESTRAINING ORDER LAWS; INCORPORATING THE FEDERAL STANDARD FOR A PRELIMINARY INJUNCTION INTO MONTANA LAW AS THE GENERAL STANDARD FOR A PRELIMINARY INJUNCTION OR TEMPORARY RESTRAINING ORDER; REQUIRING THE APPLICANT FOR A PRELIMINARY INJUNCTION OR TEMPORARY RESTRAINING ORDER TO SHOW WHY AN INJUNCTION OR TEMPORARY RESTRAINING ORDER SHOULD BE GRANTED; PROVIDING A DECLARATION OF LEGISLATIVE INTENT; ~~AND~~ AMENDING SECTIONS 27-19-201, 27-19-301, AND 27-19-315, ~~AND 75-1-201,~~ MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-19-201, MCA, is amended to read:

"**27-19-201. When preliminary injunction may be granted -- legislative intent.** ~~An injunction order may be granted in the following cases:~~

~~(1) when it appears that the applicant is entitled to the relief demanded and the relief or any part of the relief consists in restraining the commission or continuance of the act complained of, either for a limited period or perpetually;~~

~~(2) when it appears that the commission or continuance of some act during the litigation would produce a great or irreparable injury to the applicant;~~

~~(3) when it appears during the litigation that the adverse party is doing or threatens or is about to do or is procuring or suffering to be done some act in violation of the applicant's rights, respecting the subject of the action, and tending to render the judgment ineffectual;~~

(1) A preliminary injunction order or temporary restraining order may be granted when the applicant establishes that:

(a) the applicant is likely to succeed on the merits;

(b) the applicant is likely to suffer irreparable harm in the absence of preliminary relief;

(c) the balance of equities tips in the applicant's favor; and

(d) the order is in the public interest.

(2) An injunction order may be granted in either of the following cases between persons, not including a person being sued in that person's official capacity:

~~(4)~~(a) when it appears that the adverse party, ~~during the pendency of~~ while the action is pending, threatens or is about to remove or to dispose of the adverse party's property with intent to defraud the applicant, in which case an injunction order may be granted to restrain the removal or disposition; or

~~(5)~~(b) when it appears that the applicant has applied for an order under the provisions of 40-4-121 or an order of protection under Title 40, chapter 15.

(3) The applicant for an injunction provided for in this section bears the burden of demonstrating the need for an injunction order.

(4) It is the intent of the legislature that the language in subsection (1) mirror the federal preliminary injunction standard, and that interpretation and application of subsection (1) closely follow United States supreme court case law."

Section 2. Section 27-19-301, MCA, is amended to read:

"**27-19-301. Notice of application -- hearing.** (1) No preliminary injunction order may be issued without reasonable notice to the adverse party of the time and place ~~of the making of the application therefor~~ that application for the injunction order was made.

(2) Before granting an injunction order, the court or judge shall make an order requiring cause to be shown, at a specified time and place, why the injunction should ~~not~~ be granted, and the adverse party may in the meantime be restrained as provided in 27-19-314."

Section 3. Section 27-19-315, MCA, is amended to read:

"**27-19-315. When restraining order may be granted without notice.** A temporary restraining order may be granted without written or oral notice to the adverse party or the party's attorney only if:

(1) ~~it clearly appears from specific facts shown by affidavit or by the verified complaint that a delay~~

~~would cause immediate and irreparable injury to the applicant before the adverse party or the party's attorney could be heard in opposition~~ the applicant or the applicant's attorney makes a showing that the requirements of 27-19-201(1) are met; ~~and~~ and

(2) the applicant or the applicant's attorney certifies to the court in writing the efforts, if any, that have been made to give notice and the reasons supporting the applicant's claim that notice should not be required~~; and~~

~~(3) the state or the state's departments, agencies, or officers being sued in their official capacities are not the adverse party~~."

~~**Section 4.** Section 75-1-201, MCA, is amended to read:~~

~~"**75-1-201. General directions -- environmental impact statements.** (1) The legislature authorizes and directs that, to the fullest extent possible:~~

~~(a) the policies, regulations, and laws of the state must be interpreted and administered in accordance with the policies set forth in parts 1 through 3;~~

~~(b) under this part, all agencies of the state, except the legislature and except as provided in subsections (2) and (3), shall:~~

~~(i) use a systematic, interdisciplinary approach that will ensure:~~

~~(A) the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking for a state-sponsored project that may have an impact on the Montana human environment by projects in Montana; and~~

~~(B) that in any environmental review that is not subject to subsection (1)(b)(iv), when an agency considers alternatives, the alternative analysis will be in compliance with the provisions of subsections (1)(b)(iv)(C)(I) and (1)(b)(iv)(C)(II) and, if requested by the project sponsor or if determined by the agency to be necessary, subsection (1)(b)(iv)(C)(III);~~

~~(ii) identify and develop methods and procedures that will ensure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking for state-sponsored projects, along with economic and technical considerations;~~

~~(iii) identify and develop methods and procedures that will ensure that state government actions~~

~~that may impact the human environment in Montana are evaluated for regulatory restrictions on private property, as provided in subsection (1)(b)(iv)(D);~~

~~(iv) include in each recommendation or report on proposals for projects, programs, and other major actions of state government significantly affecting the quality of the human environment in Montana a detailed statement on:~~

~~(A) the environmental impact of the proposed action;~~

~~(B) any adverse effects on Montana's environment that cannot be avoided if the proposal is implemented;~~

~~(C) alternatives to the proposed action. An analysis of any alternative included in the environmental review must comply with the following criteria:~~

~~(I) any alternative proposed must be reasonable, in that the alternative must be achievable under current technology and the alternative must be economically feasible as determined solely by the economic viability for similar projects having similar conditions and physical locations and determined without regard to the economic strength of the specific project sponsor;~~

~~(II) the agency proposing the alternative shall consult with the project sponsor regarding any proposed alternative, and the agency shall give due weight and consideration to the project sponsor's comments regarding the proposed alternative;~~

~~(III) the agency shall complete a meaningful no-action alternative analysis. The no-action alternative analysis must include the projected beneficial and adverse environmental, social, and economic impact of the project's noncompletion.~~

~~(D) any regulatory impacts on private property rights, including whether alternatives that reduce, minimize, or eliminate the regulation of private property rights have been analyzed. The analysis in this subsection (1)(b)(iv)(D) need not be prepared if the proposed action does not involve the regulation of private property.~~

~~(E) the relationship between local short-term uses of the Montana human environment and the maintenance and enhancement of long-term productivity;~~

~~(F) any irreversible and irretrievable commitments of resources that would be involved in the proposed action if it is implemented;~~

~~(G) the customer fiscal impact analysis, if required by 69-2-216; and~~

~~(H) the details of the beneficial aspects of the proposed project, both short-term and long-term, and the economic advantages and disadvantages of the proposal;~~

~~(v) in accordance with the criteria set forth in subsection (1)(b)(iv)(C), study, develop, and describe appropriate alternatives to recommend courses of action in any proposal that involves unresolved conflicts concerning alternative uses of available resources. If the alternatives analysis is conducted for a project that is not a state-sponsored project and alternatives are recommended, the project sponsor may volunteer to implement the alternative. Neither the alternatives analysis nor the resulting recommendations bind the project sponsor to take a recommended course of action, but the project sponsor may agree pursuant to subsection (4)(b) to a specific course of action.~~

~~(vi) recognize the potential long-range character of environmental impacts in Montana and, when consistent with the policies of the state, lend appropriate support to initiatives, resolutions, and programs designed to maximize cooperation in anticipating and preventing a decline in the quality of Montana's environment;~~

~~(vii) make available to counties, municipalities, institutions, and individuals advice and information useful in restoring, maintaining, and enhancing the quality of Montana's environment;~~

~~(viii) initiate and use ecological information in the planning and development of resource-oriented projects; and~~

~~(ix) assist the legislature and the environmental quality council established by 5-16-101;~~

~~(c) prior to making any detailed statement as provided in subsection (1)(b)(iv), the responsible state official shall consult with and obtain the comments of any state agency that has jurisdiction by law or special expertise with respect to any environmental impact involved in Montana and with any Montana local government, as defined in 7-12-1103, that may be directly impacted by the project. The responsible state official shall also consult with and obtain comments from any state agency in Montana with respect to any regulation of private property involved. Copies of the statement and the comments and views of the appropriate state, federal, and local agencies that are authorized to develop and enforce environmental standards must be made available to the governor, the environmental quality council, and the public and must accompany the proposal through the existing agency review processes.~~

~~(d) a transfer of an ownership interest in a lease, permit, license, certificate, or other entitlement for use or permission to act by an agency, either singly or in combination with other state agencies, does not trigger review under subsection (1)(b)(iv) if there is not a material change in terms or conditions of the entitlement or unless otherwise provided by law.~~

~~(2) (a) Except as provided in subsection (2)(b), an environmental review conducted pursuant to subsection (1) may not include a review of actual or potential impacts beyond Montana's borders. It may not include actual or potential impacts that are regional, national, or global in nature.~~

~~(b) An environmental review conducted pursuant to subsection (1) may include a review of actual or potential impacts beyond Montana's borders if it is conducted by:~~

~~(i) the department of fish, wildlife, and parks for the management of wildlife and fish;~~

~~(ii) an agency reviewing an application for a project that is not a state-sponsored project to the extent that the review is required by law, rule, or regulation; or~~

~~(iii) a state agency and a federal agency to the extent the review is required by the federal agency.~~

~~(3) The department of public service regulation, in the exercise of its regulatory authority over rates and charges of railroads, motor carriers, and public utilities, is exempt from the provisions of parts 1 through 3.~~

~~(4) (a) The agency may not withhold, deny, or impose conditions on any permit or other authority to act based on parts 1 through 3 of this chapter.~~

~~(b) Nothing in this subsection (4) prevents a project sponsor and an agency from mutually developing measures that may, at the request of a project sponsor, be incorporated into a permit or other authority to act.~~

~~(c) Parts 1 through 3 of this chapter do not confer authority to an agency that is a project sponsor to modify a proposed project or action.~~

~~(5) (a) (i) A challenge to an agency action under this part may only be brought against a final agency action and may only be brought in district court or in federal court, whichever is appropriate.~~

~~(ii) Any action or proceeding challenging a final agency action alleging failure to comply with or inadequate compliance with a requirement under this part must be brought within 60 days of the action that is the subject of the challenge.~~

~~(iii) For an action taken by the board of land commissioners or the department of natural resources~~

and conservation under Title 77, "final agency action" means the date that the board of land commissioners or the department of natural resources and conservation issues a final environmental review document under this part or the date that the board approves the action that is subject to this part, whichever is later.

(b) Any action or proceeding under subsection (5)(a)(ii) must take precedence over other cases or matters in the district court unless otherwise provided by law.

(c) Any judicial action or proceeding brought in district court under subsection (5)(a) involving an equine slaughter or processing facility must comply with 81-9-240 and 81-9-241.

(6) (a) (i) In an action alleging noncompliance or inadequate compliance with a requirement of parts 1 through 3, including a challenge to an agency's decision that an environmental review is not required or a claim that the environmental review is inadequate, the agency shall compile and submit to the court the certified record of its decision at issue, and except as provided in subsection (6)(b), the person challenging the decision has the burden of proving the claim by clear and convincing evidence contained in the record.

(ii) Except as provided in subsection (6)(b), in a challenge to the agency's decision or the adequacy of an environmental review, a court may not consider any information, including but not limited to an issue, comment, argument, proposed alternative, analysis, or evidence, that was not first presented to the agency for the agency's consideration prior to the agency's decision or within the time allowed for comments to be submitted.

(iii) Except as provided in subsection (6)(b), the court shall confine its review to the record certified by the agency. The court shall affirm the agency's decision or the environmental review unless the court specifically finds that the agency's decision was arbitrary and capricious or was otherwise not in accordance with law.

(iv) A customer fiscal impact analysis pursuant to 69-2-216 or an allegation that the customer fiscal impact analysis is inadequate may not be used as the basis of an action challenging or seeking review of the agency's decision.

(b) (i) When a party challenging the decision or the adequacy of the environmental review or decision presents information not in the record certified by the agency, the challenging party shall certify under oath in an affidavit that the information is new, material, and significant evidence that was not publicly available before the agency's decision and that is relevant to the decision or the adequacy of the agency's environmental

~~review.~~

~~(ii) If upon reviewing the affidavit the court finds that the proffered information is new, material, and significant evidence that was not publicly available before the agency's decision and that is relevant to the decision or to the adequacy of the agency's environmental review, the court shall remand the new evidence to the agency for the agency's consideration and an opportunity to modify its decision or environmental review before the court considers the evidence as a part of the administrative record under review.~~

~~(iii) If the court finds that the information in the affidavit does not meet the requirements of subsection (6)(b)(i), the court may not remand the matter to the agency or consider the proffered information in making its decision.~~

~~(c) (i) The remedies provided in this section for successful challenges to a decision of the agency or the adequacy of the statement are exclusive.~~

~~(ii) Notwithstanding the provisions of 27-19-201 and 27-19-314, a court having considered the pleadings of parties and intervenors~~ who are requesting a temporary restraining order or preliminary injunction ~~or who are~~ ~~opposing a request for a temporary restraining order, preliminary injunction, permanent injunction, or other equitable relief may not enjoin the issuance or effectiveness of a license or permit or a part of a license or permit issued pursuant to Title 75 or Title 82 unless the court specifically finds that the party requesting the relief is more likely than not to prevail on the merits of its complaint given the uncontroverted facts in the record and applicable law and, in the absence of a temporary restraining order, a preliminary injunction, a permanent injunction, or other equitable relief, that the:~~

~~(A) party requesting the relief will suffer irreparable harm in the absence of the relief;~~

~~(B) issuance of the relief is in the public interest. In determining whether the grant of the relief is in the public interest, a court:~~

~~(I) may not consider the legal nature or character of any party; and~~

~~(II) shall consider the implications of the relief on the local and state economy and make written findings with respect to both.~~

~~(C) relief is as narrowly tailored as the facts allow to address both the alleged noncompliance and the irreparable harm the party asking for the relief will suffer. In tailoring the relief, the court shall ensure, to the extent possible, that the project or as much of the project as possible can go forward while also providing the~~

~~relief to which the applicant has been determined to be entitled.~~

~~(d) The court may issue a temporary restraining order, preliminary injunction, permanent injunction, or other injunctive relief only if the party seeking the relief provides a written undertaking to the court in an amount reasonably calculated by the court as adequate to pay the costs and damages sustained by any party that may be found to have been wrongfully enjoined or restrained by a court through a subsequent judicial decision in the case. If the party seeking an injunction or a temporary restraining order objects to the amount of the written undertaking for any reason, including but not limited to its asserted inability to pay, that party shall file an affidavit with the court that states the party's income, assets, and liabilities in order to facilitate the court's consideration of the amount of the written undertaking that is required. The affidavit must be served on the party enjoined.~~

~~(e) An individual or entity seeking a lease, permit, license, certificate, or other entitlement or authority to act may intervene in a lawsuit in court challenging a decision or statement by a department or agency of the state as a matter of right if the individual or entity has not been named as a defendant.~~

~~(f) Attorney fees or costs may not be awarded to the prevailing party in an action alleging noncompliance or inadequate compliance with a requirement of parts 1 through 3.~~

~~(7) For purposes of judicial review, to the extent that the requirements of this section are inconsistent with the provisions of the National Environmental Policy Act, the requirements of this section apply to an environmental review or any severable portion of an environmental review within the state's jurisdiction that is being prepared by a state agency pursuant to this part in conjunction with a federal agency proceeding pursuant to the National Environmental Policy Act.~~

~~(8) The director of the agency responsible for the determination or recommendation shall endorse in writing any determination of significance made under subsection (1)(b)(iv) or any recommendation that a determination of significance be made.~~

~~(9) A project sponsor may request a review of the significance determination or recommendation made under subsection (8) by the appropriate board, if any. The appropriate board may, at its discretion, submit an advisory recommendation to the agency regarding the issue. The period of time between the request for a review and completion of a review under this subsection may not be included for the purposes of determining compliance with the time limits established for environmental review in 75-1-208."~~

NEW SECTION. **Section 4. Severability**. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 5. Effective date**. [This act] is effective on passage and approval.

- END -

AMEND

SENATE COMMITTEE ON (S) JUDICIARY
January 26, 2023
VOTE TABULATION - SB 171

Sen. Usher made a Motion that SB 171 Do Pass as Amended
YEAS – 10 NAYS - 1

Y	Usher, Barry
Y	Gross, Jen
Y	Hinebauch, Steve
Y	Emrich, Daniel
Y	Webber, Susan
Y	Manzella, Theresa
N	Olsen, Andrea
Y	Brown, Bob
Y	Friedel, Chris
Y	Kelker, Kathy; by proxy
Y	Regier, Keith

SENATE COMMITTEE ON (S) JUDICIARY
January 26, 2023
VOTE TABULATION - SB 160

Sen. Usher made a Motion that SB 160 Do Pass as Amended
YEAS – 9 NAYS - 2

Y	Usher, Barry
Y	Gross, Jen
Y	Hinebauch, Steve
N	Emrich, Daniel
Y	Webber, Susan
Y	Manzella, Theresa
Y	Olsen, Andrea
Y	Brown, Bob
Y	Friedel, Chris
N	Kelker, Kathy; by proxy
Y	Regier, Keith

SENATE COMMITTEE ON (S) JUDICIARY
January 26, 2023
VOTE TABULATION - SB 191

Sen. Usher made a Motion that SB 191 Do Pass as Amended
YEAS – 7 NAYS - 4

Y	Usher, Barry
N	Gross, Jen
Y	Hinebauch, Steve
Y	Emrich, Daniel
N	Webber, Susan
Y	Manzella, Theresa
N	Olsen, Andrea
Y	Brown, Bob
Y	Friedel, Chris
N	Kelker, Kathy; by proxy
Y	Regier, Keith

SENATE COMMITTEE ON (S) JUDICIARY
January 26, 2023
VOTE TABULATION - SR 6

Sen. Usher made a Motion that SR 6 Do Pass
YEAS – 7 NAYS - 4

Y	Usher, Barry
N	Gross, Jen
Y	Hinebauch, Steve
Y	Emrich, Daniel
N	Webber, Susan
Y	Manzella, Theresa
N	Olsen, Andrea
Y	Brown, Bob
Y	Friedel, Chris
N	Kelker, Kathy; by proxy
Y	Regier, Keith

SENATE PROXY

I, Senator Kathy Kelker, hereby authorize Senator Gross to vote my proxy before the Senate Judiciary meeting held on 01/26, 2023.

Katharin Kelker
Senator Signature

01/26/23
Date

Said authorization is as follows: *(mark only one)*

- ☑ All votes, including amendments.
- ☐ All votes as directed below on the listed bills, and all other votes.
- ☐ Votes only as directed below.

Bill No./Amendment No.	Aye	No
HB 83	✓	
SB0171.001.001	✓	
SB171 as amended once	✓	
SB0160.001.001	✓	
SB160 as amended once		✓
SB 183		✓
SB 191.001.005	✓	
SB 191 as amended once		✓
SR 6		✓
HB 83	✓	
SB 111	✓	

VISITORS REGISTER

MONTANA SENATE
JUDICIARY COMMITTEE

Date: January 26, 23 Bill No: HB111

Sponsor: Rep. Jodee Etchart

(Insert Short Title)

Please print ~ Please print ~ Please print ~ Please print

NAME	REPRESENTING	Support	Oppose	Informat'l
Robin Turner	ACLU of MT	✓		

Please leave prepared testimony with Committee Secretary. Witness Statement Forms are available if you prefer to submit written testimony.

VISITORS REGISTER

MONTANA SENATE
JUDICIARY COMMITTEE

Date: January 26, 23 Bill No: HB83

Sponsor: Rep. Amy Regier
(Insert Short Title)

Please print ~ Please print ~ Please print ~ Please print

NAME	REPRESENTING	Support	Oppose	Informat'l
Nikki Grossberg	CFSD	✓		
Natalia Bowser	MBCC			X

Please leave prepared testimony with Committee Secretary. Witness Statement Forms are available if you prefer to submit written testimony.

VISITORS REGISTER

MONTANA SENATE
JUDICIARY COMMITTEE

Date: January 26, 23 Bill No: SB201

Sponsor: Sen Greg Hertz

(Insert Short Title)

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NAME	REPRESENTING	Support	Oppose	Informat'l
Bruce Spencer	MJA		X	
Al Smith	MTLA		X	
Gina Reilly	Helena	X		
Scott Cook	MT COPP			X
Sean Spencer	Montana State Bar		X	
Lant Barney	Helena			
Chris Gallus	COPP			✓

Please leave prepared testimony with Committee Secretary. Witness Statement Forms are available if you prefer to submit written testimony.

MINUTES

MONTANA SENATE

68th LEGISLATURE - REGULAR SESSION

COMMITTEE ON (S) JUDICIARY

Call to Order: Chair Sen. Keith Regier-R, on January 26, 2023 at 9:02 AM, in 303

ROLL CALL

Members Present:	Sen. Keith Regier, Chair (R) Sen. Jen Gross, Vice Chair (D) Sen. Barry Usher, Vice Chair (R) Sen. Bob Brown (R) Sen. Daniel Emrich (R) Sen. Chris Friedel (R) Sen. Steve Hinebauch (R) Sen. Theresa Manzella (R) Sen. Andrea Olsen (D) Sen. Susan Webber (D)
Members Excused:	Sen. Kathy Kelker (D)
Staff Present:	Grace Gibney, Secretary Madelyn Krezowski, Attorney

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:

HB 83 01/23/2023
HB 111 01/23/2023
SB 201 01/23/2023

Executive Action:

HB 149
SB 171 DO PASS AS AMENDED
SB 160 DO PASS AS AMENDED
SB 183 DO PASS
SB 191 DO PASS AS AMENDED
SR 6 DO PASS
HB 83
HB 111

HEARING ON HB 83 - Revise administration of Family Violence Prevention Services Act grants

Opening Statement:

09:03:46 Rep. Amy Regier (R), HD 6, opened the hearing on HB 83, Revise administration of Family Violence Prevention Services Act grants.

Proponent Testimony:

09:04:57 Nikki Grossberg, Child and Family Services, Department of Health and Human Services (DPHHS)

09:06:56 Kelsen Young, Montana Collation Against Domestic and Sexual Violence

Opponent Testimony:

None

Informational Witness Testimony:

09:08:54 Natalia Bowser, Montana Board of Crime Control (MBCC)

Questions from Committee:

09:09:17 Sen. Jen Gross

09:09:34 Natalia Bowser, MBCC

09:10:19 Sen. Keith Regier

09:11:19 Nikki Grossberg, DPHHS

Closing Statement:

09:11:32 Rep. Amy Regier (R), HD 6, closed the hearing on HB 83.

HEARING ON HB 111 - Revise laws related to assignment of counsel at public expense

Opening Statement:

09:12:00 Rep. Jodee Etchart (R), HD 48, opened the hearing on HB 111, Revise laws related to assignment of counsel at public expense.

Proponent Testimony:

09:12:56 Robin Turner, American Civil Liberties Union of Montana

09:14:37 Brian Smith, Public Defender Division

Opponent Testimony:

None

Informational Witness Testimony:

None

Questions from Committee:

09:16:27 Sen. Barry Usher

09:17:01 Brian Smith, Public Defender Division

09:19:08 Sen. Keith Regier

09:20:04 Brian Smith, Public Defender Division

09:20:11 Sen. Andrea Olsen

09:21:32 Brian Smith, Public Defender Division

09:21:38 Sen. Theresa Manzella

09:21:59 Brian Smith, Public Defender Division

Closing Statement:

09:22:50 Rep. Jodee Etchart (R), HD 48, closed the hearing on HB 111.

HEARING ON SB 201 - Revise judicial recusal laws when parties made campaign contributions

Opening Statement:

09:24:15 Sen. Greg Hertz (R), SD 12, opened the hearing on SB 201, Revise judicial recusal laws when parties made campaign contributions.

Discussion:

EXHIBIT(230126JUSa1)

Proponent Testimony:

09:31:06 Lant Barney, Hallin and Associates

Opponent Testimony:

09:33:02 Sean Slanger, Montana State Bar

09:35:18 Bruce Spencer, Montana Judges Association

09:40:28 Al Smith, Montana Trial Lawyers Association (MTLA)

Informational Witness Testimony:

09:48:24 Chris Gallus, Commissioner of Political Practice Governors Office (COPP)

09:51:02 Scott Cook, Office of Commissioner of Political Practice (COPP)

Questions from Committee:

09:51:42 Sen. Theresa Manzella

09:51:45 Sean Slanger, Montana State Bar

09:55:07 Sen. Theresa Manzella

09:55:54 Al Smith, MTLA

09:55:59 Sen. Keith Regier

09:56:01 Sen. Greg Hertz-R

09:57:21 Sen. Jen Gross

09:57:30 Scott Cook, COPP

10:02:08 Sen. Jen Gross

10:02:10 Bruce Spencer

10:04:11 Sen. Susan Webber

10:06:42 Sen. Barry Usher

10:07:49 Sean Slanger, Montana State Bar

10:09:41 Sen. Jen Gross

10:09:55 Bruce Spencer, Montana Judges Association

10:11:25 Sen. Jen Gross

10:11:27 Al Smith, MTLA

10:13:53 Sen. Daniel Emrich

10:14:25 Scott Cook, COPP

10:15:32 Sen. Daniel Emrich

10:15:35 Chris Gallus, COPP

10:16:54 Sean Slanger, Montana State Bar

10:19:01 Sen. Andrea Olsen

10:23:26 Al Smith, MTLA

10:23:35 Sen. Andrea Olsen

10:24:12 Sen. Greg Hertz-R

10:26:00 Sen. Susan Webber

10:27:13 Sen. Greg Hertz-R

10:29:24 Sen. Andrea Olsen

Closing Statement:

10:32:15 Sen. Greg Hertz (R), SD 12, closed the hearing on SB 201.

EXECUTIVE ACTION ON HB 149 - Generally revise laws related to 9-1-1 program

11:03:07 **Motion:** Sen. Barry Usher moved that **HB 149 BE CONCURRED IN.**

11:03:07 **Vote:** Motion carried unanimously by voice vote.

11:03:07 **Carrier Assigned:** Sen. Daniel Emrich

EXECUTIVE ACTION ON SB 171 - Provide for distribution of certain property/funds after inmate dies in custody

11:04:55 **Motion:** Sen. Barry Usher moved that **SB 171 DO PASS.**

11:05:52 **Motion:** Sen. Bob Brown moved that **SB 171 BE AMENDED.**

11:05:52 **Vote:** Motion carried unanimously by voice vote.

11:06:57 **Motion:** Sen. Barry Usher moved that **SB 171 DO PASS AS AMENDED.**

11:06:57 **Vote:** Motion carried 10 - 1 by roll call vote with Sen. Olsen, voting no.

EXECUTIVE ACTION ON SB 160 - Generally revise drug and human trafficking laws

11:11:54 **Motion:** Sen. Barry Usher moved that **SB 160 DO PASS.**

11:11:54 **Vote:** Motion failed unanimously by voice vote.

11:12:02 **Motion:** Sen. Barry Usher moved that **SB 160 BE AMENDED.**

11:12:02 **Vote:** Motion carried unanimously by voice vote.

11:16:43 **Motion:** Sen. Barry Usher moved that **SB 160 DO PASS AS AMENDED.**

11:16:43 **Vote:** Motion carried 9 - 2 by roll call vote with Sen. Emrich, Sen. Kelker, voting no.
Sen. Kelker, By Proxy

EXECUTIVE ACTION ON SB 183 - Provide for jury trials in cases involving termination of parental rights

11:18:06 **Motion:** Sen. Barry Usher moved that **SB 183 DO PASS.**

Discussion:

11:19:22 Sen. Theresa Manzella

11:19:24 Sen. Andrea Olsen

11:20:01 Sen. Daniel Emrich

11:18:06 **Vote:** Motion carried 7 - 4 by voice vote with Sen. Gross, Sen. Kelker, Sen. Olsen, Sen. Webber, voting no.
Sen. Kelker, By Proxy

EXECUTIVE ACTION ON SB 191 - Revise preliminary injunction laws

11:23:00 **Motion:** Sen. Barry Usher moved that **SB 191 DO PASS.**

11:24:56 **Motion:** Sen. Barry Usher moved that **SB 191 BE AMENDED.**

11:24:56 **Vote:** Motion carried unanimously by voice vote.

11:27:04 **Motion:** Sen. Barry Usher moved that **SB 191 DO PASS AS AMENDED.**

11:27:04 **Vote:** Motion carried 7 - 4 by roll call vote with Sen. Gross, Sen. Kelker, Sen. Olsen, Sen. Webber, voting no.
Sen. Kelker, By Proxy

EXECUTIVE ACTION ON SR 6 - Confirm governor's appointees for the judicial standards commission

11:31:06 **Motion:** Sen. Barry Usher moved that **SR 6 DO PASS.**

11:31:06 **Vote:** Motion carried 7 - 4 by roll call vote with Sen. Gross, Sen. Kelker, Sen. Olsen, Sen. Webber, voting no.
Sen. Kelker, By Proxy

EXECUTIVE ACTION ON HB 83 - Revise administration of Family Violence Prevention Services Act grants

11:34:16 **Motion:** Sen. Barry Usher moved that **HB 83 BE CONCURRED IN.**

11:34:16 **Vote:** Motion carried unanimously by voice vote.

11:34:16 **Carrier Assigned:** Sen. Jen Gross

EXECUTIVE ACTION ON HB 111 - Revise laws related to assignment of counsel at public expense

11:36:10 **Motion:** Sen. Barry Usher moved that **HB 111 BE CONCURRED IN.**

11:36:10 **Vote:** Motion carried unanimously by voice vote.

11:36:10 **Carrier Assigned:** Sen. Barry Usher

ADJOURNMENT

Adjournment: 11:37:52

Grace Gibney, Secretary

Additional Documents:EXHIBIT(230126JUSaad)

Montana State Legislature

2023 Session

House Additional Documents

May include the following:

- Business Report
- Roll Call -Attendance
- Standing Committee Reports
- Tabled Bills
- Fiscal Reports [if any]
- Roll Call Votes
- Proxies signed in ink
- Visitor's sign-in sheet.
- Informational Item's
- Witness Statements if any,
- Zoom/Internet Testimony Information & index
- All Public Testimony document(s) may or may not be scanned, but will be on file at the Montana Historical Society for your research
- Any other type of documents such as:
  @ Petitions, {if any} Emails, all documents given to Committee Secretary before & after meeting.

The original exhibit/items are on file at the Montana Historical Society and may be viewed there.

Montana Historical Society Archives,
225 N. Roberts, Helena, MT 59620-1201
E-Document Specialist Susie Hamilton

BUSINESS REPORT

MONTANA HOUSE

REGULAR

(H) Judiciary

Date: 02/09/2023 **Time:** 8:00 AM

Place: Capitol **Room:** 137

BILLS and RESOLUTIONS HEARD:

HB 359 Prohibit minors from attending drag shows - Rep. Braxton Mitchell

SB 191 Revise preliminary injunction laws - Sen. Steve Fitzpatrick

EXECUTIVE ACTION TAKEN:

HB 233:

HB 233 Reconsider actions on HB 233

HB 330:

HB 330 To Table

HB 356:

HB 356 Do Pass

HB 361:

HB 361 Do Pass as Amended

SB 191:

SB 191 Be Concurred In

Comments:

Amy Regier

Rep. Amy Regier-R, Chair

House

Roll Call

(H) Judiciary

DATE: 02/09/2023
TIME: 8:00 AM

NAME	PRESENT	ABSENT/EXCUSED
Bishop, Laurie	X	
Carlson, Jennifer		X
Deming, Lee	X	
Duram, Neil		X
Etchart, Jodee		X
France, Tom	X	
Hawk, Donavon	X	
Hinkle, Jedediah	X	
Hinkle, Caleb		X
Howell, SJ	X	
Kmetz, Greg	X	
Knudsen, Casey	X	
Ler, Brandon	X	
Mitchell, Braxton	X	
Regier, Amy	X	
Rusk, Wayne	X	
Sheldon-Galloway, Lola	X	
Smith, Laura	X	
Zephyr, Zooey	X	
Abbott, Kim	X	

House Standing Committee Report

February 09, 2023

To the Speaker,

We, your committee on **(H) Judiciary** recommend that **House Bill 356** (first reading copy – white) **Do Pass**.

Signed: Amy Regier

Rep. Amy Regier-R, Chair

-End-

Committee Vote:

Yes 13, No 6

House Standing Committee Report

February 09, 2023

To the Speaker,

We, your committee on **(H) Judiciary** recommend that **House Bill 361** (first reading copy – white) **Do Pass as Amended**. The referenced amendment is HB0361.001.001.

Signed: Amy Regier

Rep. Amy Regier-R, Chair

-End-

Committee Vote:

Yes 13, No 6

House Standing Committee Report

February 09, 2023

To the Speaker,

We, your committee on **(H) Judiciary** recommend that **Senate Bill 191** (first reading copy – white) **Be Concurred In**.

Carrier: Rep. Mercer

Signed: Amy Regier

Rep. Amy Regier-R, Chair

-End-

Committee Vote:

Yes 15, No 4

HR 2-9-23 @ 3:30 pm

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

AUTHORIZED COMMITTEE PROXY 68TH LEGISLATIVE SESSION

I request to be excused from the House Justice Committee.

I desire to leave my proxy vote with Rep. Brandon LER.

PLEASE USE PEN

BILL	MOTION (Include AMENDMENT #)	AYE	NO
HB330	Am 1.2	X	
HB330			X
HB356		X	

BILL	MOTION (Include AMENDMENT #)	AYE	NO

I authorize my vote to be matched with that of Rep. Brandon LER for any amendments proposed on this date.

Rep. Neil Duram HD2

(Signature) (Print Name) (Meeting Date)

HOUSE COMMITTEE ON (H) JUDICIARY
February 09, 2023
VOTE TABULATION - HB 330

Rep. Ler made a Motion that HB 330 To Table
YEAS – 19 NAYS - 0

Y	Bishop, Laurie
Y	Carlson, Jennifer
Y	Deming, Lee
Y	Duram, Neil; by proxy
Y	Etchart, Jodee
Y	France, Tom
Y	Hawk, Donavon
Y	Hinkle, Jedediah
Y	Hinkle, Caleb
Y	Howell, SJ
Y	Kmetz, Greg
Y	Knudsen, Casey
Y	Ler, Brandon
Y	Mitchell, Braxton
Y	Regier, Amy
Y	Rusk, Wayne
Y	Sheldon-Galloway, Lola
Y	Smith, Laura
Y	Zephyr, Zooey

HOUSE COMMITTEE ON (H) JUDICIARY
February 09, 2023
VOTE TABULATION - HB 330

Rep. Ler made a Motion that HB 330 Do Pass as Amended
YEAS – 9 NAYS - 10

Y	Bishop, Laurie
N	Carlson, Jennifer
Y	Deming, Lee
N	Duram, Neil; by proxy
Y	Etchart, Jodee
Y	France, Tom
Y	Hawk, Donavon
N	Hinkle, Jedediah
N	Hinkle, Caleb
Y	Howell, SJ
N	Kmetz, Greg
Y	Knudsen, Casey
N	Ler, Brandon
N	Mitchell, Braxton
N	Regier, Amy
N	Rusk, Wayne
N	Sheldon-Galloway, Lola
Y	Smith, Laura
Y	Zephyr, Zooey

HOUSE COMMITTEE ON (H) JUDICIARY
February 09, 2023
VOTE TABULATION - HB 233

Rep. Bishop made a Motion that Reconsider actions on HB 233 Other
YEAS – 8 NAYS - 11

Y	Bishop, Laurie
N	Carlson, Jennifer
N	Deming, Lee
Y	Duram, Neil
N	Etchart, Jodee
Y	France, Tom
Y	Hawk, Donavon
N	Hinkle, Jedediah
N	Hinkle, Caleb
Y	Howell, SJ
Y	Kmetz, Greg
N	Knudsen, Casey
N	Ler, Brandon
N	Mitchell, Braxton
N	Regier, Amy
N	Rusk, Wayne
N	Sheldon-Galloway, Lola
Y	Smith, Laura
Y	Zephyr, Zooey

HOUSE COMMITTEE ON (H) JUDICIARY
February 09, 2023
VOTE TABULATION - SB 191

Rep. Ler made a Motion that SB 191 Be Concurred In
YEAS – 15 NAYS - 4

N	Bishop, Laurie
Y	Carlson, Jennifer
Y	Deming, Lee
Y	Duram, Neil
Y	Etchart, Jodee
Y	France, Tom
N	Hawk, Donavon
Y	Hinkle, Jedediah
Y	Hinkle, Caleb
N	Howell, SJ
Y	Kmetz, Greg
Y	Knudsen, Casey
Y	Ler, Brandon
Y	Mitchell, Braxton
Y	Regier, Amy
Y	Rusk, Wayne
Y	Sheldon-Galloway, Lola
Y	Smith, Laura
N	Zephyr, Zooey

HOUSE COMMITTEE ON (H) JUDICIARY
February 09, 2023
VOTE TABULATION - HB 361

Rep. Ler made a Motion that HB 361 Do Pass as Amended
YEAS – 13 NAYS - 6

N	Bishop, Laurie
Y	Carlson, Jennifer
Y	Deming, Lee
Y	Duram, Neil
Y	Etchart, Jodee
N	France, Tom
N	Hawk, Donavon
Y	Hinkle, Jedediah
Y	Hinkle, Caleb
N	Howell, SJ
Y	Kmetz, Greg
Y	Knudsen, Casey
Y	Ler, Brandon
Y	Mitchell, Braxton
Y	Regier, Amy
Y	Rusk, Wayne
Y	Sheldon-Galloway, Lola
N	Smith, Laura
N	Zephyr, Zooey

HOUSE COMMITTEE ON (H) JUDICIARY
February 09, 2023
VOTE TABULATION - HB 361

Rep. Knudsen made a Motion that HB0361.001.002 Be Amended
YEAS – 0 NAYS - 19

N	Bishop, Laurie
N	Carlson, Jennifer
N	Deming, Lee
N	Duram, Neil
N	Etchart, Jodee
N	France, Tom
N	Hawk, Donavon
N	Hinkle, Jedediah
N	Hinkle, Caleb
N	Howell, SJ
N	Kmetz, Greg
N	Knudsen, Casey
N	Ler, Brandon
N	Mitchell, Braxton
N	Regier, Amy
N	Rusk, Wayne
N	Sheldon-Galloway, Lola
N	Smith, Laura
N	Zephyr, Zooey

HOUSE COMMITTEE ON (H) JUDICIARY
February 09, 2023
VOTE TABULATION - HB 361

Rep. Knudsen made a Motion that HB0361.001.001 Be Amended
YEAS – 12 NAYS - 7

N	Bishop, Laurie
Y	Carlson, Jennifer
Y	Deming, Lee
Y	Duram, Neil
Y	Etchart, Jodee
N	France, Tom
N	Hawk, Donavon
N	Hinkle, Jedediah
Y	Hinkle, Caleb
N	Howell, SJ
Y	Kmetz, Greg
Y	Knudsen, Casey
Y	Ler, Brandon
Y	Mitchell, Braxton
Y	Regier, Amy
Y	Rusk, Wayne
Y	Sheldon-Galloway, Lola
N	Smith, Laura
N	Zephyr, Zooey

HOUSE COMMITTEE ON (H) JUDICIARY
February 09, 2023
VOTE TABULATION - HB 356

Rep. Ler made a Motion that HB 356 Do Pass
YEAS – 13 NAYS - 6

N	Bishop, Laurie
Y	Carlson, Jennifer
Y	Deming, Lee
Y	Duram, Neil; by proxy
Y	Etchart, Jodee
N	France, Tom
N	Hawk, Donavon
Y	Hinkle, Jedediah
Y	Hinkle, Caleb
N	Howell, SJ
Y	Kmetz, Greg
Y	Knudsen, Casey
Y	Ler, Brandon
Y	Mitchell, Braxton
Y	Regier, Amy
Y	Rusk, Wayne
Y	Sheldon-Galloway, Lola
N	Smith, Laura
N	Zephyr, Zooey

HOUSE COMMITTEE ON (H) JUDICIARY
February 09, 2023
VOTE TABULATION - HB 330

Rep. Ler made a Motion that HB0330.001.002 Be Amended
YEAS – 19 NAYS - 0

Y	Bishop, Laurie
Y	Carlson, Jennifer
Y	Deming, Lee
Y	Duram, Neil; by proxy
Y	Etchart, Jodee
Y	France, Tom
Y	Hawk, Donavon
Y	Hinkle, Jedediah
Y	Hinkle, Caleb
Y	Howell, SJ
Y	Kmetz, Greg
Y	Knudsen, Casey
Y	Ler, Brandon
Y	Mitchell, Braxton
Y	Regier, Amy
Y	Rusk, Wayne
Y	Sheldon-Galloway, Lola
Y	Smith, Laura
Y	Zephyr, Zooey

WITNESS
STATEMENT

Thank you for placing your heart into working for the people of Montana.

The evils of pedophilia currently invading our state is a mirror image of the demonic Grammy show of Sam Smith. His exact song was recently used as background music for sexual pole dances by Cesar Jacinto "Cee-Cee" at Levitation Nation in Kalispell, MT in December 2022.

Cesar dances scantily clad in only a tight, small brief (exposing his buttocks) and high-heels. Children are given pole-dancing lessons in the same room in Kalispell. Cesar stated about one of his shows: "It's our duty to desensitize people to this".

I also have a duty. An authoritative duty is given to me by Jesus Christ to defend my children against sexual predators. I refuse to allow my children to be brought to burlesque shows near Cesar at Noble Dance in Kalispell (where the father of my children dances, and where he may attempt to bring my children) or to events like "Tiger King" themed birthday parties hosted by my brother Josiah Baer in Kalispell at Diamond B Ranch. Children are exposed to STDs on the poles and equipment of such dance studios. I won't allow my little ones' health to be compromised by people such as bi-sexual Levitation Nation pole dance teacher Bailey Plympton, Cesar Jacinto, or anyone else who participates in public group sex.

I attended church with Bailey at Bible Baptist Kalispell for many years before she decided to start undressing with drag shows. We parted ways after disagreeing on the issue. Their youth group has cross-dressing youth skits with Matt and Emily Zemacke. Emily wore suggestive shirts at youth events. One of her shirts she wore around minors at the events stated, "Hike naked. It will add some color to your cheeks." Please understand that group-sex behavior with lack of clothing results in physical harm. My brother Josiah's hero, "Tiger King" lost his first male partner Brian Rhyne to death by HIV in 2001.

Levitation Nation of Kalispell teaches pole dancing to children and then performs at many drag shows around Montana, including one at Riverfront Park in Libby, MT on July 9, 2022.
"The DNA Experience", "Sativa St. James", "Nova Kaine", and "Freedom Rights" are four well-known drag performers who danced at that event. Dollar bills were handed out to them from the crowd during the 2022 Lincoln County show. They allowed children to be in attendance. Although some may view this is as a joke, I take this threat to my children's safety very seriously. At 5 years old I was physically and sexually harmed by two lesbians, resulting in damage that took years to heal from. They say this was an isolated incident and LGBTQ is not any greater threat than straight predators. However, further personal attacks I've experienced from drag groups this year has proven otherwise. Levitation Nation of Kalispell is currently unconcerned about physical threats I received from a member of their dance community. Despite their claims that they help victims of domestic violence, Bailey Plympton did the opposite by calling me several demeaning terms and laughing at me when I explained to her that one member of their dance community had fired a gun over my head, beaten me, taken my cell phone, and threatened my life. Please pass HB359 to protect my children and I from the violence of these sexual predators who are not content with straight, clean adult sex. Instead, they conjugate strange flesh and force themselves on innocent children.

Thank you all for your time.

Hereby perceive we REAL love: the love of God, who laid down his life for us. He died, was buried, rose again the third day, and is alive for evermore: Jesus Christ, who is full of grace and truth. -KJV

02/09/23 JUH ONLINE TESTIMONY LIST

2/9/2023	JUH	HB	359	Opponent	Gwen Nicholson	MISSOULA	gwennicholson@protonmail.com	NA
2/9/2023	JUH	HB	359	Opponent	colton mason	MISSOULA	coltonx9@gmail.com	NA
2/9/2023	JUH	HB	359	Opponent	Charley Macorn	MISSOULA	midasears@gmail.com	NA
2/9/2023	JUH	HB	359	Opponent	Elani Borhegyi	MISSOULA	elani.borhegyi@gmail.com	NA
2/9/2023	JUH	HB	359	Opponent	Heru Spencer	BOZEMAN	President@djediorder.org	DJEDI ORDER
2/9/2023	JUH	HB	359	Opponent	Valan Anthos	MISSOULA	anthosvz10@gmail.com	NA
2/9/2023	JUH	HB	359	Opponent	Meshayla Cox	BOZEMAN	coequityconsulting@gmail.com	NA
2/9/2023	JUH	HB	359	Opponent	Allison Goodnight	MISSOULA	gratitude32@yahoo.com	NA
2/9/2023	JUH	HB	359	Opponent	Pari Kemmick	BILLINGS	pari.kemmick@gmail.com	
2/9/2023	JUH	HB	359	Opponent	denise rose	HAMILTON	denisetrose@yahoo.com	NA
2/9/2023	JUH	HB	359	Opponent	Tammy Ravas	MISSOULA	tlravas@gmail.com	NA
2/9/2023	JUH	HB	359	Opponent	Sharon Patton-Griffin	GREAT FALLS	pattongriffin@yahoo.com	NA
2/9/2023	JUH	HB	359	Opponent	Robin Turner	HELENA	robin@turnerstrategiespllc.com	Montana Coalition Against Domestic/Sexual Violence
2/9/2023	JUH	HB	359	Opponent	Kayla Ridgley	RONAN	kaylakeplin@gmail.com	NA
2/9/2023	JUH	HB	359	Opponent	Donald J Stuker	BOZEMAN	dstuker@gmail.com	NA
2/9/2023	JUH	HB	359	Proponent	Johanna Kennedy	BILLINGS	Cjkennedy6@hotmail.com	NA
2/9/2023	JUH	HB	359	Proponent	Arthur Schaper	TORRANCE, CA	arthur@massresistance.org	MassResistance
2/9/2023	JUH	HB	359	Proponent	Jeni Dodd	GREAT FALLS	jeni@jenidodd.com	NA
2/9/2023	JUH	HB	359	Proponent	Lee Barton	KALISPELL	xcaptoros@protonmail.com	NA
2/9/2023	JUH	HB	359	Proponent	Jessie Browning	BILLINGS	barrettjess03@msn.com	Moms for Liberty--Yellowstone County
2/9/2023	JUH	HB	359	Proponent	Cheryl Tusken	BOZEMAN	ctusken@protonmail.com	NA
2/9/2023	JUH	HB	359	Proponent	Jacob Bulawsky	COLUMBIA FALLS	jacobbulawsky@proton.me	NA
2/9/2023	JUH	HB	359	Proponent	Cindy Roscoe	HELENA	ontimeprocleanservice@gmail.com	NA
2/9/2023	JUH	HB	359	Proponent	Kathy Butterfield	WEST GLACIER	hikerpawz7@icloud.com	NA
2/9/2023	JUH	HB	359	Proponent	Corrina Wrobel	GREAT FALLS	corriwrobel@yahoo.com	NA

2/9/2023	JUH	HB	359	Proponent	Heather Higgs	BOZEMAN	heatherhiggs@hotmail.com	NA
2/9/2023	JUH	HB	359	Proponent	Anna Shchemelinin	BOZEMAN	anna@bridger3d.com	NA
2/9/2023	JUH	HB	359	Proponent	Alba Pimentel	BILLINGS	Albareyes406@gmail.com	Moms for Liberty
2/9/2023	JUH	HB	359	Proponent	Ed Byrne	CRESTON	Edwardjbyrne860@gmail.com	NA
2/9/2023	JUH	HB	359	Proponent	Timothy Adams	STEVENSVILLE	tadamsmt@pm.me	NA
2/9/2023	JUH	SB	191	Opponent	Sharon Patton-Griffin	GREAT FALLS	pattongriffin@yahoo.com	NA

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

VISITOR REGISTER

JUDICIARY COMMITTEE

DATE 2/9 BILL NO: HB 359

SPONSOR(S): Rep Mitchell

SHORT TITLE: _____

Please leave prepared testimony with the clerk.
Witness Statement forms are available if you care to submit written testimony.

PLEASE PRINT PLEASE PRINT PLEASE PRINT PLEASE PRINT

Name	Representing	Support	Oppose	Informt'l
Andy Nelson	Self		X	
Arnaldo Smith	Self		X	
Elani Borhegyi	Self		X	
Charley Macorn	Self		✓	
Donna Elford	Self	✓		
Roy Bertelsen	Self		X	
Tom Bird	Self		X	
Robin Turner	MCADSV		X	

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

VISITOR REGISTER

JUDICIARY COMMITTEE

DATE 2/9 BILL NO: HB 359

SPONSOR(S): Rep Mitchell

SHORT TITLE: _____

Please leave prepared testimony with the clerk.
Witness Statement forms are available if you care to submit written testimony.

PLEASE PRINT PLEASE PRINT PLEASE PRINT PLEASE PRINT

Name	Representing	Support	Oppose	Informt'l
Nadia Mell	Montanan Theatre Industry		X	
SK Rossi	HRC		X	
SHARON MASON	self	X		
Shani Henry	Self		X	
Ruth Probert	Self	X		
Cathy Carlson	Self	X		
Shawn Reagor	MHORN		X	
Amanda Curtis	MFPE		X	
Sam Forstag	MLA		✓	
Quinn Leighton	PPAMT		X	
Adrian Jawort			X	
Mikyli Flynn	BPE			X
Jeremy Nygland		X		
Jeff Laszloffy	MFF	X		
Corinne Woods	Grandstreet		X	
Cheryl Tushyn		X		
Superintendent Arntzen	OPI	✓		

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

VISITOR REGISTER

JUDICIARY COMMITTEE

DATE 2/9 BILL NO: SB191

SPONSOR(S): Sen. Fitzpatrick

SHORT TITLE: _____

Please leave prepared testimony with the clerk.
Witness Statement forms are available if you care to submit written testimony.

PLEASE PRINT PLEASE PRINT PLEASE PRINT PLEASE PRINT

Name	Representing	Support	Oppose	Informt'l
Brent Mead	DOJ			X
Jeff Laszloffy	MFF	X		
Andy Nelson	self		X	
Donna Elford		X		

ADDITIONAL DOCUMENTS

DRAG PERFORMERS AND TRANS FOLKS

What's the difference? (It's simple!!)

Transgender refers to someone's personal gender identity and sense of self.
Drag is a *temporary* and deliberate performance of gender.

TRANS = WHO YOU ARE

Transgender is a term used to indicate a person has a gender identity other than the one they were assigned at birth.

DRAG = WHAT YOU DO

Drag is a type of entertainment where people dress up and perform. Being in drag is not an integral part of a performer's identity in the same way that gender is.

STATE OF MONTANA

AUSTIN KNUDSEN
ATTORNEY GENERAL

215 NORTH
SANDERS STREET
P.O. BOX 201401
HELENA, MT
59620-1401

February 8, 2023

House Judiciary Committee
Chair Representative Amy Regier
Representative Tom France

RE: House Bill 356

Chair Regier and Representative France,

You asked me this morning during testimony on House Bill 356 if I could provide you written policies of companies that have discriminated against firearms or firearms-related business in Montana. I replied that most of these companies, specifically large banks, have not overtly stated these positions publicly, but rather simply engage in discriminatory actions against these Montana firearms companies.

However, I did state to you my belief that two (2) major companies are engaged in active discrimination against firearm companies in Montana, and have put these policies in writing: UPS and FedEx. Both UPS and FedEx recently enacted new shipping policies that only apply to firearms manufacturers and dealers. I have obtained copies of both UPS' and FedEx's new firearm manufacturer/dealer shipping contracts. These form contracts are being used in Montana, and I received them from Montana firearms businesses. Attached find them provided, along with a brief legal memo from my office. The shipping contracts have been redacted to protect these whistleblowing Montana businesses from retaliation.

I hope this helps in your deliberations. Please let me know if I can be of further assistance.

Sincerely,

Austin Knudsen

ADDITIONAL DOCUMENTS

ADDITIONAL DOCUMENTS

Memo on FedEx Firearms Agreement Responses

Summary

FedEx largely confirms our reading of their firearm shipment agreements. However, they fail to justify why they implemented them at the same time as UPS—claiming that they did so without input from UPS or ATF.

General Thoughts

FedEx does not provide a copy of the shipping agreement as we requested. Page 4. They do confirm most of the sections that we take issue with but claim that the full agreements are confidential and may not be shared. Pages 2, 4. They dispute our reading of the contract to require three separate shipping account numbers that may not be mixed and matched, saying instead that firearms must be sent through a firearm-specific account, but that those shipments may also contain non-firearm products. Page 2. I believe that they are correct in this reading, but this system still allows FedEx to easily flag firearm sales.

Conclusion

Just like UPS's response, FedEx did not provide a satisfactory reason for why it implemented these changes on the same day as its largest competitor. While FedEx does not outright lie to us, they do mischaracterize the agreement before confirming its specifics. *Compare* Page 1 ("many of the expressed concerns are not reflective of FedEx policies or practices") *with* Page 2 (requiring FFLs to comply with laws, maintain records of that compliance, make those records available to FedEx, and allowing FedEx to share that information with feds). Overall, FedEx was much more careful than UPS in its responses, but it is likely they are hiding the truth from us on how these changes were made.

FEDEX AND UPS FIREARM POLICIES

Background: [redacted] a Montana gun store owner, reached out to the Governor's office about some updated policies from FedEx and UPS for gun shops. He expressed concern about how difficult it was to comply with the new regulations and the addition of a new requirement that allowed the companies to inspect his records and inventory at will. He reached out to both FedEx and UPS, who both said that the ATF required these changes. No ATF regulation sets these requirements.

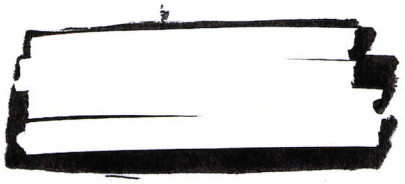
Policies: Both companies require FFL holders to create three separate accounts before they ship products using FedEx or UPS. FFLs must create an account for shipping 1) firearms, 2) firearm parts, and 3) all other firearm-related products. FFLs may not mix and match shipments. The shipping agreements also require the FFLs to submit to audits by the shipping companies, which allow those companies to inspect gun store books and records. The agreements also indemnify the shipping companies whenever they comply with requests from law enforcement. The FedEx agreement contains a gag clause that prevents FFLs from disclosing the terms of the agreement.

Effect of Policies: These policies allow FedEx and UPS to track gun and gun part shipments in a way that they haven't been able to previously. By giving the companies permission to inspect the books of gun stores and information share with law enforcement, they can also easily tell ATF who purchased what type of gun or gun attachment.

Legal Hook: If ATF is requiring FedEx and UPS to adopt these changes, then they may have adopted a rule without following APA notice and comment requirements. If ATF did not require FedEx and UPS to make these changes, then the policy changes might create an anti-trust problem.

FedEx®

FEDEX FIREARMS SHIPPING COMPLIANCE AGREEMENT



FEDERAL LICENSE NO:

THIS AGREEMENT IS VALID ONLY FOR THE CUSTOMER NAME, LOCATION(S) AND ACCOUNT NUMBER(S) IDENTIFIED HEREIN

Federal Express Corporation ("FedEx Express"), FedEx Freight, Inc. ("FedEx Freight") and FedEx Ground Package System, Inc. ("FedEx Ground") (collectively "FedEx") and _____ ("Customer") agree to enter into this FedEx Firearms Shipping Agreement ("Agreement") as of the last date executed below ("Effective Date"), subject to the following terms and conditions and applicable only to Participating Account Number(s) _____

1. **Terms and Conditions.**

   a. Shipments Covered by this Agreement. FedEx shall provide services for the shipment of certain firearms, antique firearms, and replica firearms (all as those terms are defined in the Gun Control Act of 1968) as well as muzzleloaders and black powder firearms, except as limited or prohibited in subsection (b) herein (collectively, "Firearms") only pursuant to the terms and conditions set forth in this Agreement and the FedEx Service Guide or the FedEx Freight 100 Series Rules Tariff ("Tariff"), as applicable, in effect at the time of shipment, as may be amended from time to time. Shipments with FedEx Freight shall also be subject to all terms and conditions set forth in the attached addendum ("Freight Addendum"), incorporated herein by reference. In the event of a conflict between the FedEx Service Guide and this Agreement or between the Tariff and this Agreement, this Agreement shall control.

   b. Prohibited / Restricted Shipments. Destructive Devices and Machineguns, as defined in the Gun Control Act of 1968, are strictly prohibited. Handguns may only be shipped using FedEx Express services as set forth in Section 3(c) or using FedEx Freight services as set forth in the Freight Addendum. Handguns are prohibited in the FedEx Ground network.

   c. Federal Firearms License ("FFL") Requirement. Customer shall provide a copy of its FFL upon enrollment. Customer agrees to maintain and timely renew its FFL as a condition of this Agreement. Customer agrees to inform FedEx in the event its license is not renewed or is revoked for any reason, at which point this Agreement will immediately terminate pursuant to Section 9 below.

   d. Recipients. Customer shall only ship to recipients that have an active FFL. Prior to shipping, Customer warrants that it will obtain a copy of the recipient's FFL and verify that the license is active by searching the ATF database (currently available at https://www.atfonline.gov/fflezcheck) or through other means. Shipments to non-licensed recipients or holders of inactive or expired FFLs are prohibited, except that Customer may ship to Law Enforcement. As used herein, the term Law Enforcement means any law enforcement agency of the U.S. or any other department or agency thereof, and any law enforcement agency of any state or any department, agency or political subdivisions thereof.

   e. Packaging. The items being shipped must not be described on the package, container, airbill, or other shipping documents. All outer packaging must comply with applicable law and must be non-descript, which includes, but is not limited to, the shipper's and recipient's names on the shipping label or airbill. Customer must (i) with respect to items shipped through FedEx Express, use a FedEx Box (medium or large) or appropriate packaging of its own; (ii) with respect to items shipped through FedEx Ground, use appropriate packaging of its own; and (iii) with respect to Firearms shipped through FedEx Freight, palletize and use a FedEx Freight Box or shrink-wrap the freight with non-descript, opaque, durable material that conceals all freight contents. FedEx reserves the right to require Customer to submit its packaging to the FedEx Packaging Lab for testing and approval.

   f. Non-Delivery. Customer shall report to FedEx Customer Service all non-delivery of shipments under this Agreement and any Firearm(s) missing from a shipment as soon as reasonably practicable upon

Customer becoming aware either internally or upon notification by the recipient. Customer shall provide FedEx with the make, model, and serial number of any missing Firearm(s), as well as the FedEx tracking number of the shipment. Failure to comply with this provision may result in immediate termination of this Agreement pursuant to Section 9 below.

g. Miscellaneous:
    i. Customer agrees that it will make no requests to redirect or divert Firearms shipments. Customer acknowledges that such requests for Firearms shipments, including but not limited to requests for a redirect to hold at a FedEx location, are a breach of this Agreement.
    ii. C.O.D. shipments of Firearms are prohibited.
    iii. Customer will not tender or deliver Firearms shipments to a FedEx Authorized Ship Center ("FASC"), FedEx Ship & Get Self-Service Lockers, or Amazon Lockers. Customer will only tender Firearms shipments to a FedEx Office, FedEx Ship Center or via a scheduled pick-up.
    iv. Ammunition is classified as Dangerous Goods or Hazardous Materials under U.S. regulations and must be shipped separately from any Firearm shipment, in separate packaging, and in accordance with all applicable laws, rules and regulations and as set forth in the Service Guide or Tariff, as applicable.

2. Customer Shall Comply with All Applicable Laws.

a. Customer agrees to comply fully with all federal, state, and local laws, rules, regulations, and orders applicable to each of Customer's shipments under this Agreement, to keep such records as are necessary to ensure compliance with this provision, and to make such records available to FedEx upon request.
b. Customer represents and warrants that it has obtained all applicable licenses and / or permits required to ship into all states into which Customer intends to ship pursuant to this Agreement. Further, Customer agrees to only tender packages for delivery that comply with FedEx policy. Failure to do so may result in immediate termination of Customer's shipping privileges or termination of this Agreement.
c. Upon reasonable request by FedEx, Customer shall, within a reasonable time period, provide documentation sufficient to demonstrate Customer's legal compliance with respect to Customer firearm shipments (including, but not limited to, copies of any applicable license or permit).
d. Customer acknowledges and agrees that FedEx shall not be responsible for identifying or interpreting any applicable laws or regulations that may affect Customer's shipments under this Agreement, nor shall FedEx have any liability to Customer where FedEx may comply with instructions or requests from applicable law enforcement or other governmental authorities, regardless if such instructions are inconsistent or contrary to any applicable law, rule, regulation, or order.
e. Customer agrees that FedEx may, if required, provide to any federal, state, or local government law enforcement agency, information concerning Customer's shipments, enrollment, account, or other information provided however, that FedEx will, to the extent legally permissible, provide timely notice to Customer.

3. Customer Shall Comply with All FedEx Requirements.

a. Customer Account Number (EAN). The Customer Account Number(s) (EAN(s)) designated below shall not be used for exclusively non-Firearms shipments. Any shipment made by Customer using the EAN(s) listed below must include one or more Firearms. Any exclusively non-Firearms shipment must be shipped using a separate account number.
b. Automation. Customer agrees to only use a FedEx-provided or approved automated shipping solution or device (including fedex.com) for Firearms shipments made under this Agreement; provided further, that FedEx may, in its sole discretion, provide written waiver of his condition. Manual airbills are prohibited. Customer further agrees that it will keep its automated shipping solution or device updated to the latest release version as new versions are released by FedEx.
c. Adult Signature Required Or Direct Signature Required. Customer agrees that for each shipment under this Agreement, Customer will select and utilize either the Adult Signature Required ("ASR")

or the Direct Signature Required ("DSR") Delivery Signature Option. Signature release is not allowed for packages shipped under this Agreement.

d. FedEx Services. With respect to items shipped through FedEx Express or FedEx Ground, Customer agrees (i) to ship all Firearms (excluding handguns) shipments via any FedEx Express, FedEx Ground or FedEx Home Delivery service that allows for the use of the ASR Delivery Signature Option. (ii) Handguns may only be shipped via FedEx Express services that allow for the use of the ASR Delivery Service Option; and (iii) international shipments of Firearms are prohibited.

4. **Indemnity.** Customer shall indemnify, defend, and hold harmless FedEx Express; FedEx Ground; FedEx Freight; their parent corporation, FedEx Corporation; their affiliated companies; their officers, directors, employees, and agents; and their successors and assigns from any and all claims, losses, damages, fines, costs, demands, expenses (including without limitation attorneys' fees and costs), liabilities, enforcement actions, lawsuits, and/or judgments (collectively "Claims") arising out of or related to Customer's breach of this Agreement or its non-compliance with any laws, rules, regulations, or orders applicable to the shipment or transportation of Firearms , whether such Claims are the result of actions undertaken by a governmental entity or by another person or entity. Further, Customer agrees that it will not settle any such Claims without prior written consent from FedEx, which consent shall not be unreasonably withheld. This indemnity shall survive the expiration or termination of this Agreement.

5. **Limitations of Liability.** FedEx makes no warranties, express or implied, and disclaims any and all warranties in connection with the services provided to Customer. Customer agrees that FedEx will not be liable in any event for any damages, whether direct, indirect, incidental, special, or consequential, in excess of $100.00 or the declared value of its shipment in accordance with the FedEx Service Guide or Tariff in effect at the time of shipment.

6. **Loss or Damage.** FedEx liability for loss or damage to Firearms shipments shall be pursuant to the terms and conditions of the FedEx Service Guide or Tariff in effect at the time of shipment.

7. **Money-Back Guarantee.** Customer shall be entitled to file claims pursuant to the Money-Back Guarantee Policy provisions of the FedEx Service Guide or applicable Tariff terms, unless otherwise waived or amended pursuant to the terms of any pricing or other agreement between FedEx and Customer. In the event that Customer is entitled to file claims pursuant to the Money-Back Guarantee Policy or applicable Tariff terms, Customer acknowledges and agrees that (i) FedEx shall have no responsibility or liability for delay due to the inability to deliver to an appropriate adult recipient or if delivery cannot be completed for any reason, and (ii) Customer shall not be entitled to pursue a Money-Back Guarantee claim or Tariff-based claim for such shipments.

8. **Term.** This Agreement commences on the Effective Date and continues until terminated by either party.

9. **Termination.** Either party may terminate this Agreement upon notice for the other party's noncompliance with its terms. Further, FedEx shall have the right to terminate this Agreement immediately, and to stop providing service to Customer, if Customer fails to comply with any applicable laws or regulations, the FedEx Service Guide or the Tariff. Either party may terminate this Agreement without penalty at any time and for any reason upon ten (10) days' prior written notice to the other party

10. **Unauthorized/Return Shipments.** Any unauthorized or improper shipments by Customer may result in immediate termination of this Agreement by FedEx and/or refusal by FedEx to receive or transport any shipment tendered by Customer.
    a. FedEx reserves the right to return any shipment tendered to FedEx which (i) Customer is prohibited from shipping, (ii) FedEx is not authorized to accept, (iii) FedEx has specified that it will not accept, or (iv) FedEx has a right to refuse. Customer shall be responsible for all return and/or disposal costs.
    b. Where FedEx is unable to deliver a shipment to an adult recipient (for any reason), and Customer refuses return of the shipment or the shipment cannot be returned to the Customer (for any reason, including the reasons identified in 10(a) above), FedEx at its sole discretion shall have the right to dispose of the shipment. Customer shall be responsible for all return and/or disposal costs.

11. **Prior Agreements.** This Agreement supersedes all previous agreements between FedEx and Customer related to Firearms shipments. However, any terms in a prior agreement related to pricing or other services and terms between FedEx and Customer are not superseded and shall remain in effect pursuant to those terms and the FedEx Service Guide.

12. **Confidentiality.** Both FedEx and Customer agree that this Agreement is confidential and shall be held in strict confidence by both parties and may not be disclosed unless required by law or as set forth in 2(g) above.

Notwithstanding the foregoing, Customer may, to the extent necessary to fulfill its obligations pursuant to this Agreement, disclose the terms of this Agreement to its customers and end consumers in order to obtain their agreement and cooperation in abiding by such terms

13. **Electronic Storage.** Either Party may copy this completed, fully executed Agreement for electronic storage in a noneditable format, at which time the paper form of this Agreement may be destroyed. Customer and FedEx agree that following the electronic storage of this Agreement, any hard copy printout of that electronically stored information will constitute an "original" of this Agreement.
14. **Entire Agreement and Amendment**. This Agreement and, as applicable, the FedEx Service Guide or Tariff, shall constitute the entire agreement between the parties regarding the subject matter herein. FEDEX MAY MAKE FUTURE CHANGES OR MODIFICATIONS TO THE FEDEX SERVICE GUIDE OR TARIFF AT ANY TIME WITHOUT NOTICE, AND YOUR SUBSEQUENT USE OF FEDEX.COM OR YOUR AUTOMATED SHIPPING DEVICE WILL CONSTITUTE YOUR AGREEMENT TO THE CHANGES AND MODIFICATIONS. Notwithstanding the foregoing, FedEx may unilaterally amend the terms of this Agreement in part or in whole at any time upon fifteen (15) days written or electronically transmitted notice to Customer.
15. **No Waiver**. Failure of FedEx to exercise any right or remedy under this Agreement or otherwise, or delay by FedEx in exercising such right or remedy, shall not operate as a waiver thereof.

[redacted]

FEDERAL EXPRESS CORPORATION, FEDEX FREIGHT, INC., AND FEDEX GROUND PACKAGE SYSTEM, INC. (collectively "FedEx")
By their agent
FedEx Corporate Services, Inc. ("FedEx")

By:_____
(Signature)
Title:_____
Date:_____
ADDRESS: [redacted]
[redacted], MT
Customer Account No: [redacted]
EAN(s):

By:_____
(Signature)
Title:_____
Date:_____
Employee No.: _____

Approved FedEx Legal RLM 1759358-FIREARMS 9/22/2022

Offer expires if not accepted by Customer within 30 days of presentation of this Agreement.
Any alterations to this document by either party will render it null and void in its entirety.

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AGREEMENT FOR TRANSPORTATION OF FIREARMS AND FIREARM PARTS

This Agreement for Transportation of Firearms and Firearm Parts ("Agreement") is made and entered into by and between United Parcel Service, Inc. ("UPS") and ____ ("Shipper") for services for the shipment of Firearm Products, as defined below ("Firearm Products Shipments"). This Agreement applies only to Firearm Products Shipments and only to Shipper, the UPS Account Number(s), and the Shipping Location(s) set forth below. UPS and Shipper may each be referred to in this Agreement individually as a "Party" and collectively as the "Parties."

Firearms Products Shipments for Shipper are subject to the following terms and conditions:

1. **Applicable Terms**. Firearms Products Shipments are governed by the terms and conditions set forth in this Agreement, and in the versions of the UPS Tariff/Terms and Conditions of Service (currently available at https://www.ups.com/assets/resources/webcontent/en_US/terms_service_us.pdf) ("UPS Tariff/Terms") and the UPS Procedures for Shipping Firearms (currently available at [www.ups.com/firearams]) ("UPS Firearms Webpage") in effect at the time of shipment (each of which are hereby incorporated by reference into this Agreement). Shipper is responsible for consulting the version of the UPS Tariff/Terms and UPS Firearms Webpage in effect at the time of shipment for applicable terms and conditions.

   All Firearm Products Shipments will also be governed by other applicable contract documents, including the UPS Rate and Service Guide, in effect at the time of shipping.

2. **Defined Terms**: Capitalized terms used and not otherwise defined in this Agreement will have the following meanings:

   2.1 "Firearm" will have the same definition as set forth in Title 18, Chapter 44, and Title 26, Chapter 53, of the United States Code.

   2.2 "Firearm Part" is any part or component of a Firearm that does not by itself meet the definition of a "Firearm."

   2.3 "Firearm Products" means Firearms and Firearm Parts. The term Firearm Products does not include [list of exceptions].

3. **Licensing Requirements**:

   3.1 UPS prohibits the shipment of Firearm Products except from licensed importers, licensed manufacturers, licensed dealers, and licensed collectors (as defined in Title 18, Chapter 44 of the United States Code) to (i) other licensed importers, licensed manufacturers, licensed dealers, and licensed collectors or (ii) government agencies.

   3.2 Notwithstanding the foregoing Section 3.1, where Shipper is otherwise in full compliance with all applicable federal, state and local laws and UPS's requirements for the shipment of Firearm Products, Shipper, as a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, may tender Firearm Parts (but not Firearms) for transportation to a non-licensed individual or business.

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3.3 Shipper represents and warrants that it is properly licensed under all applicable federal and state laws. Shipper further represents and warrants that Shipper is authorized to sell, ship, or cause to be transported and delivered, Firearm Products Shipments to its consignees.

3.4 Before making any Firearm Products Shipment under this Agreement, Shipper must submit to UPS, by email to customercompliance@ups.com complete, current and accurate licensing documentation of Shipper's federal firearms license, as well as satisfactory completion of, and compliance with, any other applicable licensing requirements, including any applicable state requirements. Shipper may not tender Firearm Products Shipments to UPS unless and until UPS has confirmed receipt in writing of Shipper's licensing documentation.

4. **Geographic Coverage**. Shipper will not ship any Firearm Products (or any replicas or simulated firearms) internationally through UPS. UPS may eliminate Firearm Products Shipments service to any domestic state in UPS's sole and unlimited discretion without prior notice, and Shipper will comply with any such geographic limitations.

5. **Shipper Responsibility For Compliance With Applicable Law**:

5.1 Shipper will be solely responsible for compliance with all laws, rules and regulations that apply to the sale, purchase, shipment, transportation, delivery, receipt, transfer, possession, and distribution of Firearm Products. Such laws, rules and regulations may include, but are not limited to, requirements regarding age limitations, verification of a receiver's ability to possess Firearm Products, disclosures, background checks, packaging and labeling, shipping, registration and reporting, payment and collection of taxes or fees, and licensing.

5.2 Shipper will be solely responsible for identifying and interpreting any applicable laws, rules or regulations and for proper compliance therewith. Shipper acknowledges and agrees that this function is exclusively Shipper's responsibility and will not be UPS's responsibility.

5.3 Shipper will not tender to UPS any Firearm Products Shipment that does not comply with all applicable laws, rules and regulations. Shipper represents and warrants that all Firearm Products Shipments tendered to UPS for shipment will be in compliance with all applicable laws, rules and regulations.

5.4 UPS may in its sole and unlimited discretion demand from Shipper proof that Shipper has complied with all applicable laws, rules and regulations, and Shipper will promptly comply with any such demand.

5.5 UPS will have no liability to Shipper in circumstances where UPS complies with instructions or requests from law enforcement or other governmental authorities (formal or informal), even if such instructions or requests are, or appear to be, inconsistent with applicable laws, rules and regulations.

6. **Prohibited Firearm Products**. UPS does not accept, and Shipper will not ship, certain Firearm Products identified at the UPS Firearms Webpage. Shipper represents and warrants that Firearm Products Shipments tendered to UPS for transportation do not contain prohibited Firearm Products. UPS reserves the right to refuse to accept, transport, or deliver any Firearm Products shipment that UPS, in its sole and unlimited discretion, determines does not comply with UPS requirements for the shipment of Firearm Products or any applicable law or regulation, and to discontinue any or all service to Shipper for, among other reasons, tendering

such a shipment. UPS further reserves the right, without liability to Shipper (including for loss or damage to the shipment), to lawfully dispose of or submit to governmental authorities any Firearm Products tendered for shipment which Shippers are prohibited from shipping, which UPS is not authorized to accept, which UPS states that it will not accept, or which UPS has a right to refuse.

7. **Account Limited to Firearm Shipments**.

7.1 The UPS Firearm Account Number(s) set forth below must be exclusively used for shipments containing Firearms. Shipper will only ship Firearms under the UPS Firearm Account Number(s) and will not use the UPS Firearm Account Number(s) to tender any shipments other than Firearms.

7.2 The UPS Firearm Parts Account Number(s) set forth below must exclusively be used for shipments containing Firearm Parts. Shipper will only ship Firearm Parts under the UPS Firearm Parts Account Number(s) and will not use the UPS Firearm Parts Account Number(s) to tender any shipments other than Firearm Parts.

7.3 For any and all other items, Shipper must use a separate UPS account number.

8. **Delivery/Receiver Requirements**:

8.1 Shipper will engage UPS to transport Firearms only if destined for consignees who are federally licensed. Shipper will provide verification of licensing of its consignees to UPS upon request.

8.2 Without limiting the foregoing, Shipper will engage UPS to transport Firearms only if destined for consignees who are over the age of 21 and legally authorized to receive, possess, and purchase Firearms.

8.3 Shipper must always use Adult Signature Required ("ASR") and Direct Delivery Only (DDO) service for packages containing Firearms. Shipper must designate ASR and DDO at shipment processing using an approved UPS Shipping System.

9. **Service Level, Packaging, and Labeling Requirements**:

9.1 Shipper will only tender Firearm Products via service levels set forth at the UPS Firearms Webpage.

9.2 Shipper will supply the UPS Service Provider with a hard copy summary manifest at the time that the packages are tendered to UPS for shipment and provide UPS with Timely Upload (as defined below) of electronic Package Level Detail ("PLD") in a form acceptable to UPS. PLD includes consignee's full name, complete delivery address, package weight and zone. "Timely Upload" means the electronic transmission of PLD to UPS at the time the packages are tendered to UPS. Shipper will provide smart labels on all packages tendered to UPS. A smart label includes a MaxiCode, Postal Bar Code, current UPS Routing Code, appropriate UPS Service Icon and a UPS 1Z Tracking Number Bar Code and complies with such other requirements for smart labels as described in the current UPS Guide to Labeling, as updated from time to time by UPS. Shipper will ensure that all shipping locations will use a UPS Automated Shipping System (as defined in the UPS Tariff/Terms).

9.3 Shipper will comply with all packaging and labeling requirements set forth at the UPS Firearms Webpage.

10. **Tendering Firearm Products Shipments**. Shipper will tender Firearm Products Shipments to UPS at Shipper's daily pickup location only.

11. **Shipper Compliance With UPS Requirements**. Shipper will comply with all of UPS's packaging, labeling, and other requirements set forth in this Agreement, including the requirements set forth in the UPS Tariff/Terms or at the UPS Firearms Webpage, and any updates that may be made to those requirements. Shipper's compliance with UPS's requirements does not alter or affect Shipper's responsibility under this Agreement to keep informed of and comply with all applicable laws, rules and regulations relating to Firearm Products Shipments. Provisions of any UPS-provided packaging or labeling, including packaging and labeling required by this Agreement, are not a representation or warranty by UPS that the packaging or labeling complies with applicable laws, rules and regulations for Firearm Products Shipments.

12. **Shipper Compliance Program**:

12.1 Shipper will develop, implement, and maintain a compliance program ("Shipper Compliance Program"), as necessary to ensure that Shipper and its consignees are compliant with all laws, rules and regulations that apply to the sale, purchase, shipment, transportation, delivery, receipt, transfer, possession, and distribution of Firearm Products. The Shipper Compliance Program will include: (1) training for sales and marketing employees regarding lawful recipients, possessors, and purchasers of Firearm Products; (2) due diligence regarding customer licensure or authorization to receive, possess, and purchase Firearm Products under applicable federal, state, or local law; and (3) self-assessments of the Shipper Compliance Program to guarantee its effectiveness.

12.2 Shipper will supply such evidence as UPS may request in its sole and unlimited discretion relating to Shipper's compliance with all applicable laws, rules and regulations. Within five business days of such request, Shipper will supply order information (e.g., invoice, packing list and any other relevant documentation) to demonstrate contents of specific packages (tracking numbers) identified by UPS. UPS may audit Shipper at any time and for any reason. The scope of audits of Shipper may include but are not limited to: opening and inspecting Shipper's shipments; examination and review of Shipper's books and records relevant to Firearm Products Shipments; and auditing the Shipper Compliance Program.

13. **Indemnification**. Shipper will indemnify, defend and hold harmless UPS and its parent company and other affiliated companies, their officers, directors, employees, agents, and their successors and assigns, from all claims, demands, expenses (including reasonable attorneys' fees), liabilities, penalties, costs, causes of action, enforcement procedures, and suits of any kind or nature, arising out of or related to any actual or alleged Firearm Products Shipment, Shipper's breach of this Agreement, Shipper's breach of any Representation or Warranty under this Agreement, or Shipper's failure to comply with any applicable laws, rules or regulations, whether such action is brought by a governmental agency or other person or entity.

14. **Limitation of Liability**. UPS will have no liability to Shipper, including but not limited to any liability for indirect, special, incidental, or consequential damages (including lost profits), arising from or relating to UPS's compliance with instructions or requests from law enforcement or other governmental authorities (formal or informal, with or without legal process), even if such

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instructions or requests are, or appear to be, inconsistent with applicable laws, rules and regulations. UPS's liability to Shipper for the loss of or damage to goods shipped will be as set forth in the UPS Tariff/Terms and UPS Rate and Service Guide in effect at the time of shipping.

15. **Term**. The term of this Agreement will be for one year from the Effective Date as defined below. This Agreement will automatically renew for successive one-year periods unless terminated in accordance with this Agreement. UPS may suspend or terminate delivery services for Shipper, or terminate this Agreement immediately and cease providing service, if UPS determines in its sole and unlimited discretion that such action is prudent or necessary. This Agreement may be terminated for any reason at any time upon seven (7) days' written notice to the other Party.

16. **Amendments**. UPS may modify or amend any requirements for Firearm Products Shipments at any time. By tendering Firearm Products Shipments to UPS for shipment, Shipper agrees to be bound by UPS's requirements in effect at the time of shipping. Without limiting the foregoing, UPS may amend the Agreement at any time upon seven (7) days written notice to Shipper (provided that such notice requirement does not apply to any changes to the UPS Tariff/Terms or the UPS Firearms Webpage).

17. **Headings; Construction**. The headings in this Agreement are for convenience of reference only and in no way define or limit any of the provisions hereof or otherwise affect their construction or effect. Unless otherwise expressly provided, whenever the words "include", "includes", or "including" are used in this Agreement, they will be deemed followed by the words "without limitation," and will not limit the preceding words or terms. Unless specifically indicated otherwise, the word "or" whenever used in this Agreement is used in the inclusive sense of "and/or" and not the exclusive sense of "either/or." Words in the singular or plural form include the plural and singular form, respectively. Whenever the words "herein", "hereto", "hereof" or "hereunder" are used in this Agreement, they will be deemed to refer to this Agreement as a whole and not to any specific Section.

18. **Order of Precedence**. In the case of any conflict among the body of this Agreement and the terms and conditions incorporated by reference, the UPS Firearms Webpage will control, followed by this Agreement, then the UPS Tariff/Terms.

19. **Entire Agreement**. This Agreement constitutes the entire Agreement between the Parties hereto and supersedes all prior agreements and understandings, oral and written, between the Parties relating to the subject matter hereof.

IN WITNESS WHEREOF, the Parties hereto have executed or caused this Agreement to be duly executed by their duly authorized officers as of this [redacted] day of [redacted], 2022. ("Month") ("Year") (the "Effective Date").

ACCEPTED AND AGREED TO:

Account Name: [redacted]

UPS Firearm Account # (or attached list): [redacted]

UPS Firearm Parts Account # (or attached list): [redacted]

UPS Other Articles Account # (or attached list): [redacted]

Street: [redacted]

City: [redacted]

State: MT

Postal Code: [redacted]

Signature: [redacted]

Print Name: [redacted]

Title: [redacted]

UNITED PARCEL SERVICE, INC.

Signature: DocuSigned by: Manuel Mendoza 48BBC9E49C85420...

Print Name: Manuel Mendoza

Title: AE

MINUTES

MONTANA HOUSE OF REPRESENTATIVES

68th LEGISLATURE - REGULAR SESSION

COMMITTEE ON (H) JUDICIARY

Call to Order: Chair Rep. Amy Regier-R, on February 09, 2023 at 8:01 AM, in 137

ROLL CALL

Members Present:	Rep. Amy Regier, Chair (R) Rep. Laurie Bishop, Vice Chair (D) Rep. Brandon Ler, Vice Chair (R) Rep. Kim Abbott (D) Rep. Lee Deming (R) Rep. Tom France (D) Rep. Donavon Hawk (D) Rep. Jedediah Hinkle (R) Rep. SJ Howell (D) Rep. Greg Kmetz (R) Rep. Casey Knudsen (R) Rep. Braxton Mitchell (R) Rep. Wayne Rusk (R) Rep. Lola Sheldon-Galloway (R) Rep. Laura Smith (D) Rep. Zooey Zephyr (D)
Members Excused:	Rep. Jennifer Carlson (R) Rep. Neil Duram (R) Rep. Jodee Etchart (R) Rep. Caleb Hinkle (R)
Staff Present:	Jamie Van Valkenburg, Secretary Rachel Weiss, Research Analyst

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:

HB 359 02/06/2023
SB 191 02/06/2023

Executive Action:

HB 330 TO TABLE
HB 356 DO PASS
HB 361 DO PASS AS AMENDED
SB 191 BE CONCURRED IN
HB 233 RECONSIDER ACTIONS
ON HB 233

08:02:36 Rep. Hinkle has arrived

08:02:45 Rep. Duram has arrived

08:02:50

Committee Discussion:

08:02:56 Rep. Laurie Bishop

08:03:20 Rep. Donavon Hawk

HEARING ON SB 191 - Revise preliminary injunction laws

Opening Statement:

08:03:29 Sen. Steve Fitzpatrick (R), SD 10, opened the hearing on SB 191, Revise preliminary injunction laws.

Proponent Testimony:

08:06:41 Jeff Laszloffy, Montana Family Foundation

Opponent Testimony:

None

Informational Witness Testimony:

08:11:01 Brent Mead, Department of Justice

Questions from Committee:

08:11:27 Rep. Laura Smith

08:13:47 Sen. Steve Fitzpatrick-R

08:14:02 Rep. Tom France

08:14:25 Sen. Steve Fitzpatrick-R

08:17:06 Rep. Tom France

08:17:18 Jeff Laszloffy, MFF

08:17:53 Rep. Laurie Bishop

08:18:24 Sen. Steve Fitzpatrick-R

Closing Statement:

08:20:32 Sen. Steve Fitzpatrick (R), SD 10, closed the hearing on SB 191.

HEARING ON HB 359 - Prohibit minors from attending drag shows

Opening Statement:

08:21:05 Rep. Braxton Mitchell (R), HD 3, opened the hearing on HB 359, Prohibit minors from attending drag shows.

Proponent Testimony:

08:24:16 Elsie Arntzen, Office of the Superintendent

08:26:06 Cheryl Tusken, Self

08:28:25 Jenna McKinney, Montana Family Rights Alliance

08:30:35 Jeff Laszloffy, Montana Family Foundation

08:31:29 Jeremy Mygland, Self

08:33:49 Ruth Probert, Self

08:35:55 Donna Elford, Self

08:38:22 Kathy Carlson, Self

08:42:55 Sharon Nason, Self

08:43:57 Johanna Kennedy, Self

08:46:28 Lee Barton, Self

08:48:27 Jessie Browning, Moms for Liberty, Yellowstone County

08:50:39 Arther Schaper, Mass Resistance

08:53:19 Cindy Roscoe, Self

08:54:14 Kathy Butterfeild, Self

08:55:32 Corrina Wrobel, Self

08:57:33 Heather Higgs, Self

08:59:43 Anna Shchemelinin, Self

09:01:59 Alba Pimentel, Moms for Liberty

09:04:05 Ed Byrne, Self

09:06:28 Tim Adams, Self

Opponent Testimony:

09:08:44 SK Rossi, Human Rights Campaign

09:11:08 Adrian Jawort, Self

09:13:33 Amanda Curtis, Montana Federation of Public Employees

09:15:14 Nadia Mell, Self

09:17:13 Akilah Deernose, American Civil Liberties Union of Montana

09:19:41 Troy Bertelsen, Self

09:21:53 Sam Forstag, Montana Library Association

09:23:34 Annatheia Smith, Self

09:26:03 Charlie McCorn, Self

09:27:40 Rory Bird, Self

09:29:46 Karine Woods, Self

09:31:44 Beverly Sitton, Self

09:33:14 Chloe Runs Behind, Forward Montana

09:35:15 Andy Nelson, Self

09:37:23 Robin Turner, Montana Coalition Against Domestic and Sexual Violence

09:39:39 Elani Borhegyi, Self

09:41:57 Shawn Reagor, Self

09:44:22 Shani Henry, Self

09:46:13 Quinn Leighton, Planned Parenthood Advocates of Montana

09:49:00 Gwen Nicholson, Self

09:50:17 Colton Mason, Self

09:51:56 Heru Spencer, Djedi Order

09:54:30 Valan Anthos, Self

09:56:33 Allison Goodnight, Self

09:58:35 Pari Kemmick, Self

10:00:29 Denise Rose, Self

10:02:40 Tammy Ravas, Self

10:04:34 Sharon Patton-Griffin, Self

10:06:34 Donald Stuker, Self

Informational Witness Testimony:

10:08:53 McCall?? Finn

Questions from Committee:

08:29:35 Rep. Hinkle has left

08:34:49 Rep. Hinkle has arrived

08:40:50

08:45:54 Rep. Knudsen has left

08:46:00 Rep. France has left

08:56:16 Rep. Howell has left

08:58:33 Rep. Knudsen has arrived

08:59:08 Rep. Hinkle has left

09:03:19 Rep. Etchart has arrived

09:39:01 Rep. Hinkle has arrived

09:53:54	Rep. Smith has left
09:55:20	Rep. Knudsen has left
09:56:46	Rep. Ler has left
09:59:25	Rep. Smith has arrived
10:01:56	Rep. Ler has arrived
10:07:42	Rep. Knudsen has arrived
10:09:47	Rep. Jedediah Hinkle
10:09:55	Rep. Amy Regier
10:09:59	Rep. Zooey Zephyr
10:10:46	Anna Smith, Self
10:12:27	Rep. Zooey Zephyr
10:13:17	Elani Borhgeyi, self
10:15:37	Rep. Caleb Hinkle
10:15:54	Jeff Laszloffy
10:16:37	Rep. Caleb Hinkle
10:16:40	Rep. Donavon Hawk
10:17:01	Donald Stuker, Self
10:18:07	Rep. Laurie Bishop
10:18:51	SK Rossi, HRC
10:20:30	Rep. Jedediah Hinkle
10:22:31	Rep. Braxton Mitchell-R
10:23:04	Rep. Laura Smith
10:23:25	Rep. Braxton Mitchell-R
10:24:09	Rep. Laurie Bishop

10:25:09 SK Rossi, HRC

10:27:10 Rep. Lola Sheldon-Galloway

10:27:52 Elani Borhegyi, self

10:28:35 Rep. Lola Sheldon-Galloway

10:29:55 Rep. Howell has arrived

10:30:08 Denise Rose, Self

10:30:41 Rep. Laura Smith

10:31:34 Akilah Denos, ACLUM

10:32:57 Rep. Amy Regier

10:32:58 Rep. Laurie Bishop

Closing Statement:

10:33:34 Rep. Braxton Mitchell (R), HD 3, closed the hearing on HB 359.

EXECUTIVE ACTION ON HB 330 - Revise laws related to tribal DUI task forces

11:05:01 **Motion:** Rep. Brandon Ler moved that **HB 330 DO PASS.**

Discussion:

11:05:48 Rachel Weiss

11:05:55 Rep. Casey Knudsen

11:08:05 Rep. Laurie Bishop

11:08:44 **Motion:** Rep. Brandon Ler moved that **HB 330 BE AMENDED.**

11:08:44 **Vote:** Motion carried unanimously by voice vote.

11:10:36 **Motion:** Rep. Brandon Ler moved that **HB 330 DO PASS AS AMENDED.**

11:10:36 **Vote:** Motion failed 10 - 9 by roll call vote with Rep. Bishop, Rep. Deming, Rep. Etchart, Rep. France, Rep. Hawk, Rep. Howell, Rep. Knudsen, Rep. Smith, Rep. Zephyr, voting yes.

12:24:35 **Motion:** Rep. Brandon Ler moved that **HB 330 TO TABLE.**

12:24:35 **Vote:** Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 356 - Establish firearms industry nondiscrimination

11:12:20 **Motion:** Rep. Brandon Ler moved that **HB 356 DO PASS.**

Discussion:

11:12:28 Rachel Weiss

11:12:44 Rep. Tom France

11:13:35 Rep. Braxton Mitchell

11:13:36 Rep. Jedediah Hinkle

11:14:42 Rep. Tom France

11:14:43 Rep. Jedediah Hinkle

11:12:20 **Vote:** Motion carried 13 - 6 by voice vote with Rep. Bishop, Rep. France, Rep. Hawk, Rep. Howell, Rep. Smith, Rep. Zephyr, voting no.

EXECUTIVE ACTION ON HB 361 - Provide that use of a name and sex at birth by a student is not discrimination

11:16:44 **Motion:** Rep. Brandon Ler moved that **HB 361 DO PASS.**

Discussion:

11:16:53 Rachel Weiss

11:17:00 Rep. Casey Knudsen

11:17:07 **Motion:** Rep. Casey Knudsen moved that **HB 361 BE AMENDED.**

Discussion:

11:17:26 Rep. Casey Knudsen

11:18:15 Rep. Brandon Ler

11:18:17 Rep. Laurie Bishop

11:18:42 Rep. Lee Deming

11:18:49 Rep. Neil Duram joined the meeting.

11:19:06 Rep. Jedediah Hinkle

11:20:07 Rep. Casey Knudsen

11:17:07 **Vote:** Motion carried 12 - 7 by voice vote with Rep. Bishop, Rep. France, Rep. Hawk, Rep. Hinkle, Rep. Howell, Rep. Smith, Rep. Zephyr, voting no.

11:23:54 **Motion:** Rep. Casey Knudsen moved that **HB 361 BE AMENDED.**

Discussion:

11:24:04 Rep. Casey Knudsen

11:24:05 Rep. Laurie Bishop

11:25:33 Rep. SJ Howell

11:25:34 Rep. Laura Smith

11:25:54 Rep. Brandon Ler

11:26:25 Rep. Casey Knudsen

11:23:54 **Vote:** Motion failed unanimously by voice vote.

11:27:29 **Motion:** Rep. Brandon Ler moved that **HB 361 DO PASS AS AMENDED.**

Discussion:

11:27:37 Rep. Donavon Hawk

11:27:39 Rep. SJ Howell

11:29:06 Rep. Zooey Zephyr

11:31:39 Rep. Jennifer Carlson

11:27:29 **Vote:** Motion carried 13 - 6 by roll call vote with Rep. Bishop, Rep. France, Rep. Hawk, Rep. Howell, Rep. Smith, Rep. Zephyr, voting no.

EXECUTIVE ACTION ON SB 191 - Revise preliminary injunction laws

11:35:59 **Motion:** Rep. Brandon Ler moved that **SB 191 BE CONCURRED IN.**

Discussion:

11:36:15 Rachel Weiss

11:36:16 Rep. Laurie Bishop

11:37:24 Rep. Neil Duram

11:38:18 Rep. Laura Smith

11:35:59 **Vote:** Motion carried 15 - 4 by voice vote with Rep. Bishop, Rep. Hawk, Rep. Howell, Rep. Zephyr, voting no.

EXECUTIVE ACTION ON HB 233 - Require the refund of residential lease application fees

11:42:02 **Motion:** Rep. Laurie Bishop moved that **HB 233 RECONSIDER ACTIONS ON HB 233.**

Discussion:

10:34:55 Recessed

11:04:40 Reconvened

11:05:32 Rep. Carlson has arrived

11:05:36 Rep. France has arrived

11:09:41 Rep. Duram has left

11:42:09 Rep. Laurie Bishop

11:42:14 Rep. Lola Sheldon-Galloway

11:42:22 Rep. Jedediah Hinkle

11:42:49 Rep. Neil Duram

11:43:06 Rep. Casey Knudsen

11:43:35 Rep. Lola Sheldon-Galloway

11:43:56 Rep. Jennifer Carlson

11:44:06 Rep. Laurie Bishop

08:02:36 Rep. Hinkle has arrived

08:02:45 Rep. Duram has arrived

08:02:50

11:42:02 **Vote:** Motion failed 11 - 8 by roll call vote with Rep. Bishop, Rep. Duram, Rep. France, Rep. Hawk, Rep. Howell, Rep. Kmetz, Rep. Smith, Rep. Zephyr, voting yes.

ADJOURNMENT

Adjournment: 11:48:40

Jamie Van Valkenburg, Secretary

Additional Documents:EXHIBIT(230209JUHaad)